



# The Calcutta Gazette.

WEDNESDAY, NOVEMBER 29, 1876.

## PART IV.

### Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

#### LEGISLATIVE DEPARTMENT.

THE following Bill was read in the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations on the 25th November 1876, and was referred to a Select Committee, who are to report thereon in one month :—

#### *A Bill to amend the Law relating to Public Ferries.*

**Preamble.**  
WHEREAS by Regulation VI of 1819, the superintendence of public ferries is vested in the Magistrates and Joint-Magistrates, and whereas it has been deemed expedient to give power to the Lieutenant-Governor of Bengal to vest the superintendence of certain public ferries in the District Committees constituted under the District Road Cess Act, 1871; It is enacted as follows :—

1. Notwithstanding anything contained in Regulation VI of 1819 (for rescinding Regulation XIX of 1816, and for enacting other provisions in lieu thereof), or in Bengal Act I of 1866 (to amend certain provisions of Regulation VI of 1819), the Lieutenant-Governor of Bengal may, by an order published in the Calcutta Gazette, make over any public ferry to a District Committee constituted under section 49 of "the District Road Cess Act, 1871," to be administered

by such Committee until the said Lieutenant-Governor shall otherwise direct.

2. Every such ferry, when so made over, shall be maintained by the District Committee, and the profits derivable therefrom, or such part of the profits as the Lieutenant-Governor shall order, shall be carried to the credit of the District Road Fund.

The District Committee shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed in such ferry, and shall administer the same in the manner hereinafter provided.

3. When it has been determined to impose tolls on a ferry, the District Committee shall make and publish an order specifying, with the sanction of the Lieutenant-Governor, the rates at which such tolls shall be levied.

Such rates may from time to time be varied with the like sanction.

4. No person shall be liable to pay any toll for crossing any river or stream at or near a ferry unless he avails himself of the means provided by the District Committee for crossing such river or stream.

5. The District Committee may grant a lease of a ferry for any period not exceeding three years.

Duties of Committee in regard to such ferries.

Rate of tolls to be established and published.

When persons crossing river not liable to toll.

Lease of ferry.

6. Every lease of a ferry given by the District Committee shall be liable to be cancelled at once, if it shall appear to the District Committee that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the District Committee.

On the cancelment of a lease, the District Committee may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the District Committee shall pay a fair price to the owners for the use of the said boats and appliances.

Provided that within a week of taking such possession the District Committee shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or of the period during which they intend to retain them, as the case may be.

7. Any lessee of a ferry under this Act, or his agent, may refuse to convey any person or goods across a ferry until the proper toll has been paid, and may require any person who refuses to pay the toll to leave the boat and to remove his goods from it.

Any person who refuses to leave a ferry-boat or to remove his goods therefrom when required to do so under this section, shall be liable to a fine not exceeding ten rupees.

8. No person shall keep a ferry boat for the purpose of plying for hire within a distance of two miles above or below any ferry administered by a District Committee under this Act without the previous sanction of such Committee.

9. Whoever keeps a ferry-boat contrary to the provisions of the last preceding section, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

This section shall not apply to any private ferry which may be in existence at the commencement of this Act.

10. A table of tolls legibly written in the vernacular of the district shall be hung up in some conspicuous position at each end of every ferry, so as to be easily read by all persons required to pay the toll.

11. Whoever, being a lessee of a ferry under this Act, neglects to hang up a table of tolls as required by the last preceding section, shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has

been required by a notice in writing to desist from such offence.

12. The District Committee, or the lessee of a ferry under this Act, may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

13. No tolls shall be paid for the passage of troops on the march, or of animals or vehicles employed in the transport of such troops, or of military or Government stores, or the persons in charge of them,

or of military or police officers, or of any public or municipal officer on duty, or of any person in their custody, or of any property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property,

or of conservancy carts or other vehicles or animals belonging to the District Committee, or of the persons in charge of them,

and the District Committee or their lessees shall not be bound to allow any person or thing not specified above, to cross a ferry without payment of the prescribed toll;

But the District Committee may exempt any other class of persons or things from payment of the said toll; and in granting a lease of any ferry may stipulate that any servants and property of the Committee and any other persons or things, shall be allowed to cross without payment of the toll.

14. In all cases of resistance to the person authorized to collect tolls, police officers shall assist when required, and for that purpose shall have the same powers as they have in the exercise of their ordinary police duties.

15. Whoever being authorized under this Act to collect tolls, demands or takes any higher tolls than the tolls authorized under this Act, shall be liable to a fine not exceeding fifty rupees, and in default of payment to one month's imprisonment.

16. Every amount which may become due to a District Committee under the provisions of this Act in respect of any arrears payable by a lessee of a ferry or otherwise, shall be deemed to be a demand under section 1 of Bengal Act VII of 1868 (*an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue*), and shall be leviable as such.

17. Nothing contained in this Act shall be deemed to interfere with sections 139 to 146 (both inclusive), or sections 155 to 161 (both inclusive), of the Bengal Municipal Act, 1876.

18. This Act shall commence from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.



## STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to enable the Lieutenant-Governor to transfer the management of ferries upon district roads to the District Committees constituted under the District Road Cess Act, 1871. At present these ferries are superintended by the Magistrates under the provisions of Regulation VI of 1819. But as the District Road Cess Committees at present enjoy the surplus collections from these ferries, it has been thought advisable to vest the control of the ferries in those local Committees, which have the management of the roads upon which the ferries are situated. With ferries upon roads supported from imperial funds, or with ferries situated within the limits of a municipality, this Bill will in no way interfere. They will remain, as heretofore, under the charge of the Magistrates and the different municipalities. The rules laid down for the management of ferries in the Bengal Municipal Act, 1876, have been adopted, as being the most convenient for the purposes of the present Bill. And a clause has been inserted enabling the District Committees to realise their dues under the provisions of Bengal Act VII of 1868.

The 18th November 1876.

H. BELL.

FREDERICK CLARKE,  
Offg. Asst. Secy. to the Govt. of Bengal,  
Legislative Department.

THE following Bill was read in the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations on the 25th November 1876, and was referred to a Select Committee, who are to report thereon in two months:—

*A Bill for the regulation of the Ghatwali Police in the districts of Bankoora and Manbhoom.*

WHEREAS it is expedient to enact rules for the appointment of ghatwals in the districts of Bankoora and Manbhoom, and also more clearly to determine the duties and liabilities of the said ghatwals; It is enacted as follows:

1. This Act extends to the districts of Bankoora and Manbhoom, and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. In this Act, unless there be something repugnant in the subject or context,

(i) "Sardar" means the chief ghatwal in each ghat.

(ii) "Sadyal" means the next in grade below a sardar.

(iii) "Tabedar" and "Paik" respectively include all ghatwals not comprised in the two last preceding definitions.

(iv) "Ghatwal" includes all ghatwals defined in the three last preceding clauses.

(v) "Ghat" means the land held directly or indirectly as service tenure by one sardar or by one or more sardars holding jointly.

(vi) "Hereditary Ghatwal" means a ghatwal some member of whose family has been, from the time of the Permanent Settlement, in uninterrupted possession of the same service tenure, and who has performed police service for the same.

Service or possession by a substitute shall be deemed to be service or possession by the family within the meaning of the last preceding definition.

In case of dispute, it shall be presumed that possession has been uninterrupted unless the contrary be proved.

3. The appointment of all ghatwals shall rest with the District Superintendent of Police, subject, in the case of sardars and sadyals, to confirmation by the Magistrate of the district.

4. If a hereditary ghatwal dies, or becomes, in the opinion of the District Superintendent of Police, physically unfit for the performance of his duties, or resigns with the approval of the District Superintendent of Police, his next male heir shall be appointed in his place. If the next male heir is a minor, or personally unfit, some other male member of the family shall be appointed. If the next male heir is a minor, and there is no other male member of the family personally fit, the District Superintendent of Police may appoint another person, not a member of the family, who shall hold the office until such time as the minor may attain majority, and thereupon the said minor shall, if personally fit, be appointed to the office.

When the next male heir is a minor, and another male member of the family is appointed in his place, the minor shall, in the event of the appointment becoming vacant, be appointed to the office if he has attained majority and is personally fit. If at the time the appointment becomes vacant the said minor has not attained majority, or is personally unfit, his next male heir shall, if he has attained majority and is personally fit, be appointed in his place.

A person who is personally fit or unfit in the opinion of the District Superintendent of Police is personally fit or unfit within the meaning of this section.

5. When a person not a member of the family is appointed temporarily in the place of a minor, such person shall not be entitled to possession of the ghatwali lands, but shall receive such portion of the produce of the said lands as may be agreed upon by any private arrangement he may make with the minor's family, or, in the absence of any such arrangement, as may be determined by the District Superintendent of Police.

6. If any ghatwal is dismissed from his office by competent authority on account of neglect of duty, or for any offence against the laws for the time being in force, another person not a member of his family may, at the discretion of the District Superintendent of Police, be appointed to the office.

7. Every ghatwal shall be subordinate to the officer in charge of the police-station within the limits of which his service tenure is situated. He shall be bound, within such limits, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences, to detect and bring offenders to justice, to patrol roads, to escort travellers, to carry official correspondence, and to perform such other police duties as may be assigned to him. He shall be bound at all times to obey the summons of the Magistrate of the district or the District Superintendent of Police, and to perform temporarily such police duties as either of the aforesaid officers may assign to him beyond the limits aforesaid.

The duties of sardars and sadyals shall, in general, be confined to such supervision of their subordinates as may be considered necessary by the District Superintendent of Police.

Every sadyal shall be considered subordinate to the sardar of his ghat, and every tabedar and paik to the sadyal and sardar.

8. The District Superintendent of Police may, with the consent of the Magistrate of the district, by an order in writing, order any ghatwal to reside permanently at any place on or near any public road, and patrol such road in the manner and at the time specified in the order; provided that such place shall in no case be distant more than five miles from some part of the service tenure of such ghatwal, and that no ghatwal shall be so appointed whose service tenure does not contain cultivated land not less than twenty beeghas in extent.

9. Every ghatwal appointed under this Act shall receive on his appointment a certificate under the seal of the Magistrate of the district. Such certificate shall, whenever practicable, contain a specification of the extent and boundaries of the lands comprised in the service tenure to which he has been appointed, and he shall be entitled to enjoy the profits arising from such lands from the date of his appointment up to the date on which he is dismissed or otherwise removed from it, and no longer. Provided that no ghatwal shall have any mineral rights in his service-tenure.

10. No ghatwal shall engage in any employment or office whatever other than his duties as prescribed in this Act and the cultivation of his service lands, unless expressly permitted to do so in writing by the District Superintendent of Police.

11. If a non-hereditary ghatwal becomes, in the opinion of the District Superintendent of Police, physically unfit for the performance of his duties, he shall be removed from his appointment.

12. Every ghatwal who refuses or neglects to pay the quit-rent due by him to Government or to the persons entitled thereto, shall be liable to be dismissed from his appointment by the Magistrate of the district.

13. Every ghatwal who shall be guilty of any neglect of duty, or of any wilful disobedience to legal order, or who shall be convicted of any offence, shall be liable to fine or dismissal by the District Superintendent of Police, subject to the confirmation of the Magistrate of the district.

14. Every person who, while a ghatwal, alienates or attempts to alienate any part of the lands held by him as service-tenure, or who having ceased to be a ghatwal, does not forthwith deliver up his certificate and possession of his service lands to the Magistrate of the district, or appropriates or attempts to appropriate any profits arising from such lands, shall be liable to a penalty not exceeding two hundred rupees, or to imprisonment, simple or rigorous, for a period not exceeding six months, or to both. Provided that every ghatwal shall be entitled to any rents due to him by under-tenants at the time of his dismissal or removal, and also to a share in the profits of any crop which may be in the ground at the time aforesaid; such share to be determined by the District Superintendent of Police at such time as the aforesaid crop may come to maturity.

15. Every ghatwal who is guilty of any neglect of duty or of any violation of any rule, regulation, or order connected with his duties, or who is, in the opinion of the District Superintendent of Police, guilty of cowardice, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees, or to imprisonment, simple or rigorous, for a period not exceeding three months, or to both.

16. An appeal, if presented within three months from the date of the order appealed against, shall lie to the Commissioner of the division against all orders passed under this Act other than those passed in a court of law. The decision of the Commissioner shall be final, subject to the general control of the local Government.

17. No agreement made by a ghatwal with an under-tenant, or relating to the produce of his service lands shall be binding on his successor, and every ghatwal on his appointment shall obtain direct possession of the lands included in his tenure.

18. No ryot or under-tenant shall acquire a right of occupancy in ghatwali lands.

19. No civil court shall entertain a suit for recovery of possession of any service-tenure from which any ghatwal has been dismissed or removed by order of any competent authority, nor any suit to obtain possession of such a tenure on the ground of hereditary title or otherwise.

20. The local Government may, by an order published in the *Calcutta Gazette*, direct a survey of all ghatwali lands; and such survey shall be conclusive evidence of the boundaries, unless its correctness is disputed in a civil suit within three years from the date of its completion.



## STATEMENT OF OBJECTS AND REASONS.

THE objects and reasons of this Bill are stated in the following minute by the Lieutenant-Governor.

*The 4th November 1876.*

H. BELL.

*Minute by the Lieutenant-Governor of Bengal, dated 18th August 1876.*

I DESIRE to state my views regarding the course which our legislation should take respecting the ghatwalee tenures in the district of Bankoora. I have visited that district in company with the Commissioner, and have carefully consulted the Magistrate, and also the District Judge before whom some important questions have been argued, regarding the application of the existing law to these tenures. All authorities seem to be agreed that some legislation is required.

I consider it to be established that the "ghatwals," or "men of the passes," were originally a sort of militia employed by the Rajahs of the Bankoora country to protect the territory from incursions of Mahrattras, of plundering hordes and others; and were chiefly, though perhaps not entirely, stationed on the main lines of communication which might, in a certain sense, be called passes. For this service, lands, either rent-free or on a low quit-rent, were assigned to them; these assignments still exist, probably without much change, and are called "ghatwalee tenures." The theory and practice of the arrangement originally were to the effect that the ghatwalee office and its landed tenures were hereditary. Over the ghatwals there were originally headmen, something like militia officers, some of whom were called "sirdars," and men with this designation and in this position are still found. Besides what would ordinarily be deemed militia duty, these men doubtless performed police duty, although it may have been of an undefined character.

Under British rule the ghatwals with their tenures have been maintained for the most part as a rural police under the Magistrate. But individuals among them have been frequently dismissed for faults or other causes; so much so, that the hereditary character would often appear to be obscured or obliterated. Still in many instances, perhaps in the majority of instances, this character perceptibly survives. The number of the ghatwals is considerable and exceeds 3,000 for the whole district. In many cases, and for long periods, the men have obeyed without question the orders of the Magistrate, not only as regards the most obvious matters of police duty, but also as regards many miscellaneous duties and especially the patrolling of the high roads. In many instances again and at other times (especially the most recent times) they have disputed the authority of the Magistrate to order them to do many things which they have often done before, and the question has been brought before the local courts of justice. The courts have affirmed these men to be liable to many kinds of police work which embrace a large part of the whole duty of a rural policeman. The question remains as to the area over which these duties are to be performed; this question appears to me to be left indeterminate by the judicial decisions. The men themselves understand that they are not according to those decisions bound to do any work away from their own homes and lands. And the Magistrate seems to be under the same apprehension, or, as I believe, misapprehension. The consequence is that the men virtually refuse to do anything, and the Magistrate doubts whether he has the power to apply any compulsion to them. The meaning of the judicial decisions is, I believe, by no means so restricted as the district people suppose; indeed, such a restriction of meaning would be a *reductio ad absurdum*—for it is manifest that the Government could not permit a body of men to enjoy rent-free or quit-rent tenures at the public expense, on this condition only that they should stand to the defence of their own cottages and fields, and should do nothing for the public safety and welfare. But this meaning is not really deducible from the judicial decisions, and, as I understand, was not actually intended. It must, however, be admitted that it would be difficult to define authoritatively the manner in which the area of each man's duties should be determined; and the judicial decisions do not attempt any such determination.

Such, briefly, is the general aspect of the case as I learn it to be after enquiry on the spot.

The present state of affairs, then, is this—that in a large part of the district where these ghatwalee tenures exist, there is no village police except the ghatwals, who are now doing as little police work as they like, and that little as inefficiently as they choose, and who are disputing the authority of the Magistrate to make them do anything, while the Magistrate himself has doubts as to what his lawful authority is. The expediency of legislation therefore, is manifest.

It has been sometimes proposed to commute the service due from the ghatwals into money payments, from which a fund might be formed for the support of a village police to be separately established. On consideration, however, I am unwilling to undertake an arrangement of this sort, which might lead to various complications.

The desideratum in my opinion is to recognise by law the ghatwals and their tenures as hereditary, on the whole, subject to certain exceptions, and then to define their duties and obligations, and the conditions on which their tenures are to be held. The exceptions

might embrace those cases where the Magistrate could prove that a stranger not belonging to the ghatwalee family had been appointed within the last preceding 12 years, that is, the cases already alluded to, where dismissals of the ghatwals had been made and were not disputed at the time. With this view I propose that a Bill be framed for submission to the legislature.

Such a Bill should, I think, provide for the following matters:—

- the ascertainment and authoritative determination by the Magistrate of the ghatwalee lands, and the quit-rents;
- the holding, on existing quit-rents, and with hereditary descent, lineally or collaterally, of these lands by the ghatwals now in possession, with power to the Magistrate to settle the right to such holding in event of dispute;
- the description of the police duties to be performed by the ghatwals, such description to be for the most part copied from the Bengal Chowkedaree Act and the General Police Act;
- the power of the Magistrate and, under the Magistrate's control, the power of the District Superintendent of Police, to give orders to the ghatwals in regard to the performance of these duties;
- the duty of the Magistrate to define the places where, or the area within which, these duties are to be performed;
- the authority of the Magistrate, by a regular proceeding appealable to the Commissioner, to dismiss any individual ghatwal from office for neglect of duty or for criminal offence or for proved misconduct, such dismissal to involve forfeiture of holding on the condition that the next-of-kin be appointed to succeed, but the Magistrate to make a fresh appointment in event of vacancy occurring without next-of-kin being found;
- if a stranger shall be thus appointed by the Magistrate, or shall have been appointed within the last 12 years, then the holding would not necessarily descend to his heirs, the land would remain appropriated to the support of a ghatwal, but the selection of the man would rest with the discretion of the Magistrate.

If such a law were enacted, it would be desirable that the Magistrate should be careful to keep the ghatwals on duty in or near their own villages or houses, and not to send them to any distance from their homes for any length of time consecutively. Under these circumstances they may be made a very good village police. Among their duties, patrolling the high roads in their own neighbourhood would be one; it certainly must have been an essential part of their work in early times; this they might take by turns for short periods under rules which the Magistrate might easily settle, so that no man need be absent from home too long.

In those portions of the district where the ghatwalee tenures exist (which comprise the greater part of the district) no other village police besides the ghatwals will be needed.

It is to be remembered, however, that there are some portions of the district in which no ghatwalee tenures are found, and in which village police or chowkedars of the ordinary kind exist, numbering in all more than 1,000 men. In the absence of the law which has been introduced into the rest of Bengal, there is but little provision for the paying and organizing of these chowkedars. For this reason it is necessary to exercise the power given by the law to introduce the Chowkedaree Act into the Bankoora district, which will be done accordingly.

RICHARD TEMPLE.

FREDERICK CLARKE,

*Offg. Asst. Secy. to the Govt. of Bengal,  
Legislative Department.*





# The Calcutta Gazette.

WEDNESDAY, DECEMBER 20, 1876.

## PART IV.

### Bill of the Bengal Council.

GOVERNMENT OF BENGAL.

#### LEGISLATIVE DEPARTMENT.

THE following Report of a Select Committee, together with the Bill as amended by them, is, by order of the President, published for general information:—

We, the undersigned members of the Council of the Lieutenant-Governor of Bengal, to whom the Bill to amend the Court of Wards' Act, 1870, was referred, have the honor to make the following report.

We have received and considered a communication from Baboo Shoshee Booshun Mookerjee, Government Pleader, Bhagulpore.

In the Bill as referred to us the word "minor" was defined to mean a person under the age of twenty-one years, in view of the provisions of the Indian Majority Act, 1875. But as it was apprehended that this change would not enable the Court to take charge of the estate of a proprietor who has already attained majority under the Indian Majority Act, we have now omitted the definition of "minor," and substituted another form of words in those sections of the Court of Wards' Act in which the word "minor" occurs.

We have added to the list of disqualified proprietors—

- (1) Proprietors of entire estates declared by the Court on their own application to be disqualified from managing their estates;
  - (2) Any member of a ward's family who may have an immediate interest in the ward's estate, who is under the age of twenty-one, and has no legal guardian;
- with the proviso, in the case of clause (1), that the proprietor cannot compel the Court to give him back his estate until after the expiration of five years, and that the Court shall be bound to give it back to him at the end of five years if he makes an application in that behalf. In the case of clause (2), we have provided that the member of the ward's family therein described is to be removed from the superintendence of the Court as soon as the ward himself ceases to be under its superintendence.

We have deemed it advisable to enact that wards of Court shall not be competent to create any charge upon their property without the sanction of the Court, and that their property shall not be taken in execution of decrees made in respect of contracts entered into by them.

We have provided that wards' estates shall not be leased in putnee by the Court unless such a lease is considered absolutely necessary for the protection of the estate, and receives the express sanction of the Board of Revenue and the Lieutenant-Governor.

We have limited the amount to be expended on improvements of a ward's estate to five per cent. of the surplus remaining after payment of the ward's allowance, the charges of management, the Government revenue, and the outstanding debts. This percentage is only to be exceeded when, in the opinion of the Court, subject to the express sanction of the Board of Revenue and the Lieutenant-Governor, it is absolutely necessary for the protection of the estate to spend a larger sum. When the ward is a widow entitled to the estate for her life only by virtue of the will of her deceased husband or otherwise, the whole of the surplus will be paid to her.

We have allowed suits for arrears of rent to be brought on behalf of a ward if authorized by an order of the manager or sub-manager in charge of the estate.

The Bill as read in Council made arrears of rent, which are due from tenure-holders, and which accrued before the estate came under the charge of the Court, leviable as demands under Bengal Act VII of 1868. We have declared that this provision is not to apply to arrears of rent enhanced after issue of notice under the rent law, but of which the enhancement has not been confirmed by any competent court.

V. H. SCHALCH.  
G. C. PAUL.  
H. BELL.  
KRISTODAS PAL.

The 15th December 1876.

## AMENDED BILL.

*A Bill to amend the Court of Wards' Act, 1870.*

WHEREAS it is expedient to amend the Court of Wards' Act, 1870: It is enacted as follows:—

Preamble.

1. So much of section one as relates to the definition of minor is hereby repealed.

Amendment of section 2.

2. For section two the following section shall be substituted:—

"2. All proprietors of entire estates (other than proprietors who are subject to the jurisdiction as respects infants and lunatics of a High Court) who are, or may be, females not deemed by the court competent to the management of their own estates, or who are, or may be, under the age of twenty-one; all sons of such females who are, or may be, under the age of twenty-one;

all joint proprietors of entire estates held in common tenancy who are, or may be, under the age of twenty-one;

all proprietors of entire estates who for the time being are, or may be, of unsound mind, or otherwise incapable of managing their affairs by reason of any disqualifying natural or acquired defect or infirmity;

all proprietors of entire estates declared by the Court on their own application to be disqualified from managing their estates;

any member of a ward's family who may have an immediate interest in the ward's estate, who is, or may be, under the age of twenty-one, and who has no legal guardian

shall be subject to the superintendence and jurisdiction of the Court of Wards: provided that no estate of a proprietor declared disqualified by the Court on his own application shall, unless the Court shall think fit, be discharged from such superintendence and jurisdiction until after five years from the date of such proprietor becoming a ward of the Court, but at the expiration of the said five years the Court shall be bound, on the application of the proprietor in that behalf, to discharge such estate from its superintendence and jurisdiction: provided also that the Court shall discharge any such member of a ward's family from its superintendence and jurisdiction as soon as the estate of the ward ceases to be under the said superintendence and jurisdiction.

All estates, the property of any such disqualified proprietors, when taken charge of by the Court of Wards, shall, whilst they shall be under the superintendence and jurisdiction of the Court, be exempt from sale for arrears of revenue.

Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estates in case the same may be sold for any other cause while under such superintendence and jurisdiction."

New sections after section 5.

3. After section five the following sections shall be inserted:—

"5A. Proprietors whose property is under the charge of the Court shall not be competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof.

Disabilities of proprietors.

"5B. No such property shall be liable to be taken in execution of a decree made in respect of any contract entered into by any such person while his property is under the charge of the Court."

4. For sections six, seven, nine, twenty-two, twenty-three, and thirty-one, the following sections shall be substituted:—

"6. It shall be lawful for the Court, if it shall think fit, by an order under the seal thereof, to refuse to admit any such disqualified

proprietor as aforesaid to be a ward thereof, or by like order, and with the sanction of the Board of Revenue, to discharge any estate from the Court's further superintendence and jurisdiction. Provided, however, that no estate, the sole property of a person under the age of twenty-one, or of two or more such persons, and descended to him or them by the regular course of inheritance or by virtue of the will of some deceased owner thereof, shall, until such person or some one or more of such persons shall have attained the age of twenty-one years, be sold for arrears of revenue accruing subsequently to his or their succession to the same: Provided, also, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold while such proprietor is disqualified. But the revenue authorities shall, on an arrear so accruing, be authorized to farm the estate for a period not exceeding ten years, nor exceeding the time when such person or one of such persons shall have attained the age of twenty-one years. Provided, further, that the Court may by a further order rescind any such order and make such disqualified proprietor a ward of the Court. The exemption from sale for arrears of revenue, given by this section, shall only apply to cases where due notice shall have been given to the Collector, and been acknowledged by him before the sale, of the fact that the estate is the sole property of a person under the age of twenty-one years, or the property of two or more such persons.

"7. When an estate shall have been farmed under the provisions of the last preceding section, the proceeds of such farm shall be paid to the Collector, and the Collector, after the deduction of the amount of the claims of the Government for revenue, shall, with the sanction of the Board of Revenue, either pay the same to the person authorized to receive it for the ward, or shall dispose of it for the ward's benefit in any of the modes mentioned in section forty-nine.

"9. It shall be competent to the Court to manage estates and other lands falling under their charge, either by appointment of a manager, or by giving some or all of the estates and lands in farm, or by adopting such other form of management as may to the said Court seem most expedient. But no lease or farm shall, except under the sanction of the Board of Revenue, be given for a term exceeding ten years, nor exceeding the time when the ward shall have attained the age of twenty-one years, and no estate shall be leased in putnee unless, in the opinion of the Court, subject to the express

Power to manage estates.



sanction of the Board of Revenue and the Lieutenant-Governor, such a lease is absolutely necessary for the protection of the estate.

"Provided that all leases given by the Court, or by the Collector acting for the Court, or by the manager, shall become null and void on the removal of the estate from the superintendence of the Court for whatever cause, save leases made with such sanction as aforesaid.

"22. If any proprietor who is not subject to the jurisdiction, as respects infants, of a High Court of Judicature, shall be reported to be under the age of twenty-one, the Court shall direct the Collector to proceed to inquire into the age of such proprietor, and for that purpose the Collector shall have power to require the production in person of such proprietor, if a male, and of all documents from which the truth of such matter may appear, and to take evidence of witnesses upon oath or solemn affirmation. The Collector shall record such evidence, and report thereupon, and shall submit such report and all evidence taken by him to the Court. The Court shall thereupon make an order declaring the age of such proprietor, and such order shall be final and conclusive for all the purposes of this Act. The Court shall retain all documentary evidence filed with such report until the proprietor shall have attained the age of twenty-one years, unless, upon an application made thereto, it shall see fit to allow any such document to be restored to the owner thereof.

"23. The Collector may direct that any person having the unlawful custody or being unlawfully in possession of the person of any ward under the age of twenty-one shall produce him or her before the Collector on a day fixed by him, and may make such order for the temporary custody and protection of such ward as may appear proper. In the event of disobedience to his orders under this section, the Collector may impose a fine not exceeding five hundred rupees, and a daily fine not exceeding two hundred rupees, until the production of the person of such ward. In the case of a female ward she shall not be brought into Court.

"31. Every Collector in charge of a ward shall forthwith report to the Court in charge of such ward the condition of such ward, the particulars of his property, real and personal, so far as the same can be ascertained, and the persons who respectively may appear to be most eligible to be appointed manager and guardian, with the grounds of such opinion. Provided always that when a guardian of a ward under the age of twenty-one shall have been appointed by will, such person shall be appointed guardian by the Court, unless the Board of Revenue, after a report received from the Court, and after calling on the testamentary guardian to show cause, shall consider him disqualified or unfit."

Proviso to section 45.  
"5. To section forty-five the following proviso shall be added—

"Provided that the Lieutenant-Governor may at any time declare any manager to be no longer subordinate to the Collector, and may order

him to be directly subordinate to the Court or to the Board of Revenue."

Proviso and clause to section 49.

6. To section forty-nine the following proviso and clause shall be added:—

"Provided that the amount so expended shall not exceed five per centum of the said surplus, unless, in the opinion of the Court, subject to the express sanction of the Board of Revenue and the Lieutenant-Governor, it is absolutely necessary for the protection of the estate to expend an amount exceeding such percentage.

"If the ward is a widow entitled to the estate for her life only by virtue of the will of her deceased husband or otherwise, such surplus shall, if no such debts as aforesaid be outstanding, be paid to such ward."

7. To section fifty-six the following words shall be added—

"Except as provided in section thirty-one, no guardian shall be appointed in any case in which the court may consider such appointment necessary."

8. For sections sixty-four, sixty-five, sixty-six, seventy-two, seventy-four, and seventy-five, the following sections shall be substituted—

"64. The general superintendence and control of the education of every ward under the age of twenty-one is hereby vested in the Court.

"65. It shall be lawful for the Court to direct that any such ward, if a male, shall reside either with or apart from his guardian at the sudder station of the district or at any other place approved of by the Board of Revenue, and shall attend, for the purposes of education, such school or college as to the Board of Revenue may seem expedient, or be educated either at his own home or elsewhere by a private tutor, and to make such provision as may be necessary for the proper care and suitable maintenance of the said ward whilst attending such school or college.

"66. All charges and expenses which may be incurred on account of any such ward under the provisions of this Act for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of the property.

"72. No suit shall be brought on behalf of any ward unless the same be authorized by some order of the Collector under whose superintendence the estate of such ward may be, or, if the Lieutenant-Governor has, under section forty-five, declared the manager of the estate of such ward to be directly subordinate to the Court or to the Board of Revenue, then by some order of the Court or the Board of Revenue as the case may be. Provided that suits for arrears of rent may be brought on behalf of a ward if authorized by an order of the manager or sub-manager in whose charge the estate may be. Provided also that nothing herein shall be deemed

or taken to apply to any suit instituted or depending in the High Court.

"74. No adoption by any ward and no written or verbal permission to adopt given by any ward is to be deemed valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption or to the giving of such permission, on application made to him through the Court and Board of Revenue.

Tenures of wards' estates under Collector.

"75. Farmers and others holding tenures in estates in charge of the Court under the Collector (whether such tenures were created before the estate came under the charge of the Court or by the Collector after the estate came under such charge), shall be subject to the same rules, regulations, and Acts as are applicable to other persons holding similar tenures and interests under Collectors of the land revenue; but when the farm is held from the manager, these rules, regulations, and Acts shall not apply.

"All arrears of rent due to the Collector from farmers and others holding tenures in estates in charge of the Court which accrued before the estate came under the charge of the Court, shall be deemed to be demands under section 1 of Bengal Act VII of 1868 (*an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue*), and shall be leviable as such."

The last preceding clause does not apply to arrears of rent enhanced after issue of notice

under section 13 of Act X of 1859, or under section 14 of Bengal Act VIII of 1869, but of which the enhancement has not been confirmed by any competent Court.

9. The Lieutenant-Governor may order that the cost of superintendence of all estates under the charge of the Court shall be defrayed from a general contribution to be levied from such estates in such proportions as the Board of Revenue may direct.

The cost of superintendence of such estates shall be deemed to be

(a) the cost of any establishments which may be entertained by the Collector, the Court, or the Board of Revenue for the purposes of such superintendence;

(b) the cost of any clerks who may be employed in the office of the Legal Remembrancer for the purpose of superintending suits in which the Court is concerned;

and shall include, in the case of wards' estates situated in Behar, the salary of the Deputy Commissioner of wards' estates in Behar.

"Section" defined.

10. In this Act "section" means section of the said Court of Wards' Act, 1870.

11. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

FREDERICK CLARKE,

Asst. Secy. to the Govt. of Bengal,  
Legislative Department.





# The Calcutta Gazette.

WEDNESDAY, JULY 12, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th June 1876, and is hereby promulgated for general information :—

Act No. XIII of 1876.

*An Act to amend the law relating to Merchant Seamen.*

Whereas it is expedient to amend the law relating to Merchant Seamen in manner hereinafter appearing ; It is hereby enacted as follows :—

#### *Preliminary.*

1. This Act may be called “The Indian Merchant Seamen’s Act, 1876.”

Short title.

Local extent.

Commencement.

It extends to the whole of British India ;

And it shall come into force at once.

2. In this Act—“seaman” includes every person (except Masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity to serve at sea for the purposes of any ship.

Interpretation-clause.

#### *Distressed Seamen.*

3. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 211, 212, and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections ; and any Master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said

Penalty for refusing to accept distressed seamen.

sections shall, for each seaman with respect to whom he so refuses, be liable to a fine which may extend to one thousand rupees.

#### *Discharge of Seamen.*

4. No seaman or apprentice not shipped in British India shall be discharged without the previous sanction in writing of such officer as the Local Government appoints in this behalf, and such sanction shall be given or withheld at the discretion of the officer so appointed ; but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

Any person discharging a seaman or apprentice in wilful disobedience to the prohibition contained in this section, shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

#### *Engagement of Seamen.*

5. The Local Government, or such officer as it appoints in this behalf, may, by order in writing signed by its Secretary or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any Native of India to serve as a seaman on board any ship specified in such order ; but in all such cases the reasons for the prohibition shall be stated in writing.

Whoever wilfully disobeys the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

#### *Deserters.*

6. Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the Mast

Deserters.

of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns.

Any Master wilfully neglecting to comply with the provisions of this section may be punished with fine not exceeding one hundred rupees, or imprisonment for a term which may extend to one month, or with both.

#### *Imprisoned Seamen.*

7. If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any Magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section 88 of Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

8. If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the Master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in the said Act No. I of 1859, section 88, or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, the following rules shall be observed:—

(a) No person shall, while such imprisonment lasts, without the previous sanction in writing of the Local Government or of such officer as it appoints in this behalf, engage any Native of India to serve as a seaman on board such ship;

(b) the Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the Master or owner of the ship in which he is engaged to serve, and if such Master or owner without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuse to receive him on board, may require such Master or owner to deposit in the local Shipping Office (1) the wages due to such seaman or apprentice, and his money, clothes, and other effects, and (2) such sum as may in the opinion of the Local Government, or of such officer as aforesaid, be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

Whoever wilfully disobeys the prohibition contained in clause (a) of this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Any Master or owner refusing or neglecting to deposit such wages, money, clothes, and other effects, or such sum as aforesaid, may be punished with fine not exceeding five hundred rupees, and in default of payment of such fine to imprisonment for a term which may extend to three months.

#### *Accommodation of Seamen.*

9. And whereas it is expedient to increase the space required by the said Act No. I of 1859, section 70, to be allowed for European seamen and apprentices and for lascars or Native seamen; It is hereby further enacted as follows:—

Such section shall be read as if for the expressions "nine superficial feet," "fifty-four cubic feet," and "four superficial feet," the expressions "ten superficial feet," "sixty cubic feet," and "six superficial feet," were respectively substituted, and as if in the third paragraph of the same section after the word "superficial" the words "and thirty-six cubic" were inserted.

#### *Meaning of 'established par value.'*

10. And whereas doubts have been raised as to the meaning of the expression "established par value" in the said Act No. I of 1859, section 54, for the purpose of removing such doubts; It is hereby enacted as follows:—

For section 54 of Act No. I of 1859, the following shall be substituted (that is to say):—

"54. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover in the current coin of India the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments."

WHITLEY STOKES,

*Secy. to the Govt. of India.*





# The Calcutta Gazette.

WEDNESDAY, JULY 19, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th June 1876, and is hereby promulgated for general information :—

ACT No. XIII of 1876.

#### *An Act to amend the law relating to Merchant Seamen.*

Whereas it is expedient to amend the law relating to Merchant Seamen in manner hereinafter appearing; It is hereby enacted as follows :—

##### *Preliminary.*

1. This Act may be called "The Indian Merchant Seamen's Act, 1876."  
Short title.  
It extends to the whole of British India;  
Local extent.  
And it shall come into force at once.  
Commencement.
2. In this Act—"seaman" includes every person (except Masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity to serve at sea for the purposes of any ship.  
Interpretation-clause.

##### *Distressed Seamen.*

3. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 211, 212, and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections; and any Master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said  
Evidence of distress of seamen.  
Penalty for refusing to accept distressed seamen.

sections shall, for each seaman with respect to whom he so refuses, be liable to a fine which may extend to one thousand rupees.

##### *Discharge of Seamen.*

4. No seaman or apprentice not shipped in British India shall be discharged without the previous sanction in writing of such officer as the Local Government appoints in this behalf, and such sanction shall be given or withheld at the discretion of the officer so appointed; but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.  
Discharge of seamen.

Any person discharging a seaman or apprentice in wilful disobedience to the prohibition contained in this section, shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

##### *Engagement of Seamen.*

5. The Local Government, or such officer as it appoints in this behalf, may, by order in writing signed by its Secretary or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any Native of India to serve as a seaman on board any ship specified in such order; but in all such cases the reasons for the prohibition shall be stated in writing.  
Engagement of Native seamen.

Whoever wilfully disobeys the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

##### *Deserters.*

6. Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the Master  
Deserters.

of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns.

Any Master wilfully neglecting to comply with the provisions of this section may be punished with fine not exceeding one hundred rupees, or imprisonment for a term which may extend to one month, or with both.

#### *Imprisoned Seamen.*

7. If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any Magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section 88 of Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

8. If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the Master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in the said Act No. I of 1859, section 88, or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, the following rules shall be observed:—

(a) No person shall, while such imprisonment lasts, without the previous sanction in writing of the Local Government or of such officer as it appoints in this behalf, engage any Native of India to serve as a seaman on board such ship;

(b) the Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the Master or owner of the ship in which he is engaged to serve, and if such Master or owner without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuse to receive him on board, may require such Master or owner to deposit in the local Shipping Office (1) the wages due to such seaman or apprentice, and his money, clothes, and other effects, and (2) such sum as may in the opinion of the Local Government, or of such officer as aforesaid, be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

Whoever wilfully disobeys the prohibition contained in clause (a) of this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Any Master or owner refusing or neglecting to deposit such wages, money, clothes, and other effects, or such sum as aforesaid, may be punished with fine not exceeding five hundred rupees, and in default of payment of such fine to imprisonment for a term which may extend to three months.

#### *Accommodation of Seamen.*

9. And whereas it is expedient to increase the space required by the said Act No. I of 1859, section 70, to be allowed for European seamen and apprentices and for lascars or Native seamen; It is hereby further enacted as follows:—

Such section shall be read as if for the expressions "nine superficial feet," "fifty-four cubic feet," and "four superficial feet," the expressions "ten superficial feet," "sixty cubic feet," and "six superficial feet," were respectively substituted, and as if in the third paragraph of the same section after the word "superficial" the words "and thirty-six cubic" were inserted.

#### *Meaning of 'established par value.'*

10. And whereas doubts have been raised as to the meaning of the expression "established par value" in the said Act No. I of 1859, section 54, for the purpose of removing such doubts; It is hereby enacted as follows:—

For section 54 of Act No. I of 1859, the following shall be substituted (that is to say):—

"54. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover in the current coin of India the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments."

WHITLEY STOKES,  
Secy. to the Govt. of India.





# The Calcutta Gazette.

WEDNESDAY, JULY 26, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 29th June 1876, and is hereby promulgated for general information :—

Act No. XIII of 1876.

*An Act to amend the law relating to Merchant Seamen.*

Whereas it is expedient to amend the law relating to Merchant Seamen in manner hereinafter appearing; It is hereby enacted as follows :—

#### *Preliminary.*

1. This Act may be called “The Indian Merchant Seamen’s Act, 1876.”

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force at once.

Commencement.

2. In this Act—“seaman” includes every person (except Masters, pilots, and apprentices duly

Interpretation-clause.

indentured and registered) employed or engaged in any capacity to serve at sea for the purposes of any ship.

#### *Distressed Seamen.*

3. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 211, 212, and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections; and any Master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said

Evidence of distress of seamen.

Penalty for refusing to accept distressed seamen.

sections shall, for each seaman with respect to whom he so refuses, be liable to a fine which may extend to one thousand rupees.

#### *Discharge of Seamen.*

4. No seaman or apprentice not shipped in

Discharge of seamen.

British India shall be discharged without the previous sanction in writing of such officer as the Local Government appoints in this behalf, and such sanction shall be given or withheld at the discretion of the officer so appointed; but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

Any person discharging a seaman or apprentice in wilful disobedience to the prohibition contained in this section, shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

#### *Engagement of Seamen.*

5. The Local Government, or such officer as it appoints in this behalf,

Engagement of Native seamen.

may, by order in writing signed by its Secretary or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any Native of India to serve as a seaman on board any ship specified in such order; but in all such cases the reasons for the prohibition shall be stated in writing.

Whoever wilfully disobeys the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

#### *Deserters.*

6. Whenever any seaman or apprentice not shipped in British India

Deserters.

deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the Master

of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns.

Any Master wilfully neglecting to comply with the provisions of this section may be punished with fine not exceeding one hundred rupees, or imprisonment for a term which may extend to one month, or with both.

#### *Imprisoned Seamen.*

7. If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any Magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section 88 of Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

8. If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the Master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in the said Act No. I of 1859, section 88, or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, the following rules shall be observed:—

(a) No person shall, while such imprisonment lasts, without the previous sanction in writing of the Local Government or of such officer as it appoints in this behalf, engage any Native of India to serve as a seaman on board such ship;

(b) the Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the Master or owner of the ship in which he is engaged to serve, and if such Master or owner without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuse to receive him on board, may require such Master or owner to deposit in the local Shipping Office (1) the wages due to such seaman or apprentice, and his money, clothes, and other effects, and (2) such sum as may in the opinion of the Local Government, or of such officer as aforesaid, be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

Whoever wilfully disobeys the prohibition contained in clause (a) of this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Any Master or owner refusing or neglecting to deposit such wages, money, clothes, and other effects, or such sum as aforesaid, may be punished with fine not exceeding five hundred rupees, and in default of payment of such fine to imprisonment for a term which may extend to three months.

#### *Accommodation of Seamen.*

9. And whereas it is expedient to increase the space required by the said Act No. I of 1859, section 70, to be allowed for European seamen and apprentices and for lascars or Native seamen; It is hereby further enacted as follows:—

Such section shall be read as if for the expressions "nine superficial feet," "fifty-four cubic feet," and "four superficial feet," the expressions "ten superficial feet," "sixty cubic feet," and "six superficial feet," were respectively substituted, and as if in the third paragraph of the same section after the word "superficial" the words "and thirty-six cubic" were inserted.

#### *Meaning of 'established par value.'*

10. And whereas doubts have been raised as to the meaning of the expression "established par value" in the said Act No. I of 1859, section 54, for the purpose of removing such doubts; It is hereby enacted as follows:—

For section 54 of Act No. I of 1859, the following shall be substituted (that is to say):—

"54. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover in the current coin of India the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments."

WHITLEY STOKES,  
Secy. to the Govt. of India.





# The Calcutta Gazette.

WEDNESDAY, OCTOBER 18, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA

#### LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th October 1876, and is hereby promulgated for general information :—

#### ACT XVI OF 1876.

##### *An Act to amend the Stage Carriages Act.*

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages ; It is hereby enacted as follows :—

Amendment of Act XVI of 1861, s. 21. 1. For the third sentence of section 21 of the said Act, the following shall be substituted (that is to say) :

“ All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.”

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

Local extent of Act XVI of 1861.

WHITLEY STOKES,  
*Secy. to the Govt. of India.*



# The Calcutta Gazette.

WEDNESDAY, OCTOBER 25, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th October 1876, and is hereby promulgated for general information :—

ACT XVI OF 1876.

*An Act to amend the Stage Carriages Act.*

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages ; It is hereby enacted as follows :—

Preamble.

Amendment of Act XVI of 1861, s. 21.

1. For the third sentence of section 21 of the said Act, the following shall be

substituted (that is to say) :

“ All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.”

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

Local extent of Act XVI of 1861.

WHITLEY STOKES,  
*Secy. to the Govt. of India.*





# The Calcutta Gazette.

WEDNESDAY, NOVEMBER 1, 1876.

## PART V.

### Act of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th October 1876, and is hereby promulgated for general information:—

ACT XVI OF 1876.

*An Act to amend the Stage Carriages Act.*

Whereas Act No. XVI of 1861 (for licensing and regulating Stage Carriages) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows:—

Amendment of Act XVI of 1861, s. 21. 1. For the third sentence of section 21 of the said Act, the following shall be substituted (that is to say):

“All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.”

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

Local extent of Act XVI of 1861.

WHITLEY STOKES,  
Secy. to the Govt. of India.



# The Calcutta Gazette.

WEDNESDAY, DECEMBER 27, 1876.

## PART V.

### Acts of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 16th December 1876, and is hereby promulgated for general information:—

ACT No. XIX OF 1876.

*An Act for the better control of public Dramatic Performances.*

**Preamble.** WHEREAS it is expedient to empower the Government to prohibit public dramatic performances which are scandalous, defamatory, seditious or obscene; It is hereby enacted as follows:—

**Short title.** 1. This Act may be called "The Dramatic Performances Act, 1876."

**Local extent.** It extends to the whole of British India; And it shall come into force at once.

**Commencement.** 2. In this Act "Magistrate" means, in the Presidency Towns, a Magistrate of Police, and elsewhere the Magistrate of the District.

**"Magistrate" defined.** 3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

- Power to prohibit certain dramatic performances.**
- (a) of a scandalous or defamatory nature, or
  - (b) likely to excite feelings of disaffection to the Government established by law in British India, or
  - (c) likely to deprave and corrupt persons present at the performance,

the Local Government, or outside the Presidency Towns and Rangoon, the Local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

**Explanation.**—Any building or enclosure to which the public are admitted to witness a performance on payment of money, shall be deemed a "public place" within the meaning of this section.

**4.** A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

**5.** Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

**6.** Whoever, after the notification of any such order—

- Penalty for disobeying prohibition.**
- (a) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or



- (b) in any manner assists in conducting any such performance, or
- (c) is, in wilful disobedience to such order, present as a spectator, during the whole or any part of any such performance, or
- (d) being the owner or occupier, or having the use of, any house, room or place, opens, keeps or uses the same for any such performance, or permits the same to be opened, kept or used for any such performance,

shall be punishable on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine, or with both.

7. For the purpose of ascertaining the character of any intended public dramatic performance, the Local Government or such officer as it may specially empower in this behalf, may apply to the author, proprietor or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the Local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

8. If any Magistrate has reason to believe that any house, room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

9. No conviction under this Act shall bar a prosecution under section 124A or section 294 of the Indian Penal Code.

10. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may specially empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits, any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

11. The powers conferred by this Act on the Local Government may be exercised also by the Governor General in Council.

Exclusion of performances at religious festivals.

12. Nothing in this Act applies to any *jatras* or performances of a like kind at religious festivals.

WHITLEY STOKES,

Secy. to the Govt. of India.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th December 1876, and is hereby promulgated for general information:—

ACT No. XXI of 1876.

An Act to amend the Land Improvement Act, 1871.

WHEREAS doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows:—

1. This Act extends to the whole of British India: It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the twenty-eighth day of September 1871, being the day on which the said Act came into force.

2. The definition of "improvement" in section one of the said Act includes works for the storage, supply or distribution of water for the use of men and cattle employed in agriculture.

3. To section fourteen of the said Act the following clause shall be added (namely)—

"(e) If such security consists of a charge upon land, the position, extent and boundaries of such land."

4. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted:—

"15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways:—

- (a) from the borrower, as if they were arrears of land-revenue due from him;
- (b) from the surety (if any), as if they were arrears of land-revenue due from him;
- (c) out of the land to be improved, as if they were arrears of land-revenue due on account of such land:

(d) out of the property comprised in the collateral security (if any), according to the terms of such security:

Provided—

(e) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance:

(f) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance:

(g) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same rights against the borrower and the land to be improved, as the Government had when the advance was due, and may enforce such rights by ordinary process of law."

5. The Local Government may authorize the

Power to authorize  
Collector to delegate cer-  
tain powers.

Collector (as defined in the said Act) to delegate to any officer subordinate to him such of his powers under the said Act as the Local Government may from time to time prescribe.

WHITLEY STOKES,

*Secy. to the Govt. of India.*

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th December 1876, and is hereby promulgated for general information:—

ACT No. XXII OF 1876.

*An Act to provide for the Management of the Public Museum at Calcutta.*

WHEREAS by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of

Preamble.

a public museum at Calcutta, to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta, to be devoted in part to collections illustrative of Indian Archaeology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors were constituted a body corporate by the name of the Trustees of the Indian Museum, and the said Trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the

purposes of their trusts therein mentioned; and it was also enacted that the said Trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which, upon its completion, should be set apart by the said Trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings, and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust-property, should be appointed, and might be removed or suspended, by the said Trustees, subject to such regulations and conditions as the said Trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society, and illustrative of Indian Archaeology and the several branches of natural history, and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed so far as to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said Trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said Trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures, and engravings which they then possessed, and that the Council of the said Society should have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their Library and other property therein before mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said Trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said Trustees;

And whereas the said Trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act, of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said library and other property,

And whereas it is expedient to alter the constitution of the said body corporate and to amend the law relating to the appointment and salaries of the said officers:



And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows:—

*Preliminary.*

1. This Act may be called  
Short title. "The Indian Museum Act,  
1876."

2. Act No. XVII of 1866 (to provide for the Repeal of Act No. XVII of 1866) shall be repealed. But all persons nominated under the said Act as Trustees of the Indian Museum, and all officers and servants appointed under the same Act and now holding office, shall be deemed to have been respectively nominated and appointed under this Act.

*Incorporation of the Trustees.*

3. The Trustees of the said Indian Museum shall be—  
Trustees of the Indian Museum incorporated.

such Secretary to the Government of India as the Governor General in Council from time to time directs in this behalf,

the Accountant-General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other members of the Council of the said Society for the time being, to be nominated by the Council of the said Society.

the Superintendent of the Geological Survey of India,

and three other persons to be elected by the Trustees for the time being and appointed under their common seal;

and such Trustees and their successors shall, subject to the provisions hereinafter contained, be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven members thereof.

4. The persons for the time being holding the offices respectively mentioned in section three shall be *ex officio* members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provided that whenever the said Secretary to the Government of India, Accountant-General or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person, being a Member of the said Society, to be a Trustee under this Act so long as such Presidency is held by the said Secretary, Accountant-General or Superintendent.

5. If any of the said Trustees for the time being dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or not having been an *ex officio* member of the said Body Corporate become such or, if any of the Trustees to be nominated by the Council of the said Society ceases to be a member of such Council, then and in every such case the authority which

appoints the Trustee so dying, being absent from India, desiring to be discharged, refusing or becoming incapable to act or becoming an *ex officio* member as aforesaid, or ceasing to be such member of Council as aforesaid, may appoint a new Trustee in his place according to the provisions of section three,

and every Trustee so appointed shall thereupon become and be a member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

*Powers of the Trustees.*

6. It shall be lawful for the said Trustees (a) Trustees empowered to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (b) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

and all such collections shall become the property of the said Trustees for the purposes of their trusts herein mentioned;

and the said Trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been set apart by the said Trustees for the records and offices of the Geological Survey of India.

7. The said Trustees may from time to time Power to Trustees to make bye-laws consistent with this Act—

(a) for the management of the said Museum;

(b) for the summoning, holding and adjournment of general and special meetings of the said Trustees;

(c) for securing their attendance at such meetings;

(d) for the provision and keeping of minute-books and account-books;

(e) for the compiling of catalogues, and

(f) for all other purposes necessary for the execution of their trusts.

8. Subject to such regulations and conditions as the Trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust-property, provided—

(a) that no officer be appointed without the approval of the Governor General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India.

(b) that no new office be created, and no salaries of officers be altered, without the previous sanction of the Governor General in Council.

9. The said Trustees may from time to time Trustees may exchange or sell duplicates. order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of

natural history or other curiosities that may be proper for the said Museum.

10. At all meetings of the said Trustees there shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Quorum.

*Duties of the Trustees.*

11. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish, on or before the same day in each year, to such Auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the Trustees during the past twelve months, supported by the necessary vouchers.

The said Trustees shall cause such report and accounts to be annually published for general information.

12. The said Trustees shall cause every article in the said collection belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section 6, to be marked and numbered and (subject to the provisions contained in sections 9 and 15) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said Trustees and delivered to the said Society, and another copy shall be signed by the Council of the said Society and delivered to

the said Trustees, and shall be kept by them along with the inventory already delivered to the said Trustees as aforesaid.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Articles received in exchange and moneys paid on sale to be held on trust.

tion nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trusts

*Miscellaneous.*

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

In case of determination of trust, Asiatic Society may reclaim their collections.

being determined, all collections then in the said Indian Museum, other than those

WHITLEY STOKES,

*Secy. to the Govt. of India.*





# The Calcutta Gazette.

WEDNESDAY, JULY 5, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd June 1876:—

We, the undersigned Members of the Select Committee to which the Bill to extend certain

Note by the Hon'ble A. G. Macpherson, dated 28th February 1876.  
Proposed re-arrangement of the Bill by the Secretary, Legislative Department.  
From Government of Bombay, No. 1270, dated 24th February 1876.  
From Honorary Secretary, British Indian Association, dated 8th March 1876.  
From Honorary Secretary to the Calcutta Attorneys' Association, dated 4th March 1876.  
Opinion by W. E. B. Forsyth, Esq., dated 25th February 1876.  
Remarks by the Senior Magistrate, Madras, dated 7th March 1876.  
From Government of Bengal, No. 938J., dated 13th March 1876, and enclosures.  
Summary of demi-official remarks by the senior Magistrates of Madras and Bombay.  
From Superintendent and Remembrancer of Legal Affairs, No. 1773, dated 29th March 1876.  
From Government of Madras, No. 719, dated 13th April 1876, and enclosures.  
From Government of Bombay, No. 3996, dated 12th July 1875.  
From Government of Madras, No. 1673, dated 19th July 1875, and enclosures.  
Petition from Bombay Association, dated 18th May 1876.  
Memorial of the British Indian Association, dated 2nd June 1876.  
From Home Department, No. 872J., dated 1st June 1876, and enclosures.  
Note by Hon'ble T. C. Hope, dated 6th June 1876.  
From Home Department, No. 971J., dated 12th June 1876, and enclosures.  
From Home Department, No. 981J., dated 14th June 1876, forwarding letter from Government of Bengal, No. 3234, dated 17th November 1875.  
From Home Department, No. 979J., dated 14th June 1876, forwarding letter from Government of Bombay, No. 2990, dated 30th September 1875, and enclosures.

parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency towns was referred, have the honor to report that we have considered the Bill and the papers noted in the margin.

2. We have provided (section 1) that the Bill shall come into force, not at once, but on such day as the Governor-General in Council directs by notification.

3. We have defined the word 'place,' and have struck out as unnecessary the definition 'cognizable and non-cognizable offence.'

tions of 'special and local law,' 'inquiry,' 'inquired into,' 'Magistrate,' 'High Court.'

4. For the same reason we have omitted the clause relating to the salaries of Presidency Magistrates.

5. We have also omitted the provision that such Magistrates shall exercise the powers which under any law may be exercised by two Justices of the Peace.

6. We have struck out the clause declaring that *all* existing Magistrates of Police (honorary as well as stipendiary) shall be deemed Presidency Magistrates under the proposed Act. The Local Governments will therefore have to make timely arrangements for re-appointing such of those Magistrates as they may deem fit to exercise the enhanced powers which Presidency Magistrates will possess.

7. We have provided (section 11) that no punishment inflicted by a Presidency Magistrate shall exceed the punishment provided for the offence by the Penal Code or other law creating it. Under the Bill, as it recently stood, a Magistrate might give two years' imprisonment for criminal trespass.

8. We have struck out as unsuited to the Presidency towns the provisions authorizing the issue of process upon mere suspicion entertained by a Magistrate.

9. We do not think it expedient that any previous conviction should be allowed to be proved in order to enhance punishment: we have therefore (section 94) confined for this purpose previous convictions to those of offences against property, of offences relating to coin and stamps, and of the other offences enumerated in sections 2 and 4 of the Whipping Act.

10. We think that a Presidency Magistrate should record the evidence in all appealable cases, i.e. as the Bill now stands, in all cases in which he inflicts a fine exceeding Rs. 200, or imprisonment for a term exceeding six months. We have altered section 115 accordingly. We have also amended the rules (section 16) relating to the record of confessions.

11. As the powers of Presidency Magistrates will be so much increased, we think that in all serious cases a formal charge should be compulsory. We therefore propose (section 116) to require a charge in all cases punishable with imprisonment for a term exceeding six months; and we have taken from the Code of Criminal Procedure, sections 126 and 127, provisions as to the time at which the charge shall be drawn up and as to explaining it to the accused.

12. We think that whenever the Magistrate inflicts imprisonment, or fine exceeding Rs. 50 (and not merely in cases which are appealable to the High Court), he should add to the final order a brief statement of the reasons for the conviction. We have provided for this in section 126.

13. We have empowered (section 146) a Presidency Magistrate to obtain, for the purposes of inquiries and trials, not only letters, but telegrams. But we have provided that when he is not the Senior Magistrate, the direction to deliver the letter or telegram required must come from the Senior Magistrate.

14. We have enabled (section 153) the Magistrate to examine the Chemical Examiner. As the latter official usually resides near at hand, there is not the same objection as there would be to calling him in the mofussil.

15. We have provided (section 158) that commissions addressed to the Magistrate of the district may be executed by such Magistrate of the first class as he appoints.

16. In the part of the Bill (sections 159—166) which relates to search-warrants, we have added sections corresponding with sections 382 and 386 of the Criminal Procedure Code.

17. We have extended (section 167) the right of appeal against convictions. As the Bill now stands, convicted persons may appeal where the Magistrate has sentenced them to imprisonment for a term exceeding *six* months, or to fine exceeding Rs. 200. The jurisdiction of the Magistrates without appeal will thus nearly correspond to what it is at present.

18. We see no objection to the principle of giving power to Government to appeal in case of acquittal—a principle which is recognized in the Code of Criminal Procedure. But by section 168 we have diminished, from six to two months, the period within which such appeals must be presented under the proposed Act; and we have empowered the High Court, on admitting the appeal, to order the accused to be arrested and to commit him to prison or release him on bail: in this respect the Code seems defective.

19. We have altered the section (181) relating to applications under Act X of 1875, section 147. Section 181 now provides that whenever such an application is made, the applicant shall give notice to the Public Prosecutor, &c., and that no order shall be made on the merits unless at least twenty-four hours have elapsed between the giving of the notice and the hearing.

20. We have struck out the clause giving appeals to the High Court in cases of contempt. Such cases will stand on the same footing with other decisions of Magistrates.

21. We have taken away the power to award costs as distinguished from compensation.

22. We have also struck out the power (taken from Madras Act VIII of 1868, section 15) to order the restitution of property forming the subject of a charge on which a conviction has been obtained. The matter seems to a majority of us sufficiently provided for by section 242.

23. The Bill in many cases required that a seal be affixed to warrants, charges, and decisions. We see no practical advantage in these requirements and have therefore struck them out.

24. We have provided (section 232) that the sections relating to security for good behaviour shall not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act.

25. We have found it expedient to re-arrange the Bill. As last published, it closely followed the order of the present Code of Criminal Procedure, which order may for our purpose be usefully altered.

We have therefore divided the Bill into four Parts and twenty-one Chapters, arranged as follows:—

Part I contains the usual preliminary matter, and a chapter dealing with the constitution and powers of the Presidency Magistrates' Courts.



Part II treats of an ordinary case from its inception to execution. It deals successively with the following subjects: the place of inquiry: complaints: prosecutions in certain cases: summons: warrant: bail: inquiry into cases triable by the High Court: the charge: trial of cases: evidence: appeals: execution.

Part III relates to special proceedings and treats of the following subjects: criminal lunatics: contempt: security for keeping the peace: security for good behaviour: restoring possession of immoveable property: maintenance of wives and children.

Part IV contains some miscellaneous matters. It treats, for instance, of offences against the Railway, Telegraph, Post Office and Arms Acts. It provides for references of questions of law to the High Court: for the disposal of property respecting which an offence has been committed: for the payment of the expenses of complainants and witnesses: for giving information of certain offences, and for assisting the Magistrates and the Police to prevent a breach of the peace, to suppress a riot: and to take a person whose arrest is authorized.

26. We have found it expedient to make a number of amendments in the wording of the sections taken from the Code of Criminal Procedure.

27. We have been urged to extend to the Presidency Towns Chapter XXXIX (as to Local Nuisances) of the Code of Criminal Procedure. But we think that the matter is more properly provided for by the local Municipal Acts.

28. We think that the Bill has been so altered that it should be republished, and we accordingly recommend that it be republished in the *Gazette of India*, in the *Calcutta Gazette*, the *Fort St. George Gazette*, and the *Bombay Government Gazette*, and that its further consideration be stayed until the Council re-assembles in Calcutta.

T. C. HOPE.

A. HOBHOUSE.

E. C. BAYLEY.

JOHN INGLIS.

F. R. COCKERELL.

The 14th June 1876.

## NO. V.

### THE PRESIDENCY MAGISTRATES' BILL, 1876.

#### CONTENTS.

##### PREAMBLE.

##### CHAPTER I.

##### PRELIMINARY.

##### SECTIONS.

1. Short title.
- Commencement.
2. Repeal of Acts.
3. Saving of powers under local laws.
4. Matters indicated in second schedule.
5. Pending cases.
6. Definitions.

##### CHAPTER II.

##### CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

7. Establishment of Presidency Magistrates' Courts.
8. Appointment of Presidency Magistrates. Presidency Magistrates to be Justices of the Peace.
- Local limits of their jurisdiction.
- Bombay Court of Petty Sessions.
9. Appointment and powers of Chief Magistrate.
10. References in Acts to Magistrates of Police.
11. Sentences which Presidency Magistrates may pass.

##### SECTIONS.

12. Imprisonment in default of payment of fine.
- Proviso as to cases decided by Magistrate.
13. Sentence in cases of simultaneous conviction of several offences.
14. Offences under enactments not specifying Court authorized to try.
15. Offence committed in Magistrate's presence.
16. Power to record statements and confessions.
17. Power to compel restoration of abducted females.

##### CHAPTER III.

##### THE PLACE OF INQUIRY AND TRIAL.

18. Place for inquiry and trial of offence.
19. Accused triable in district where act done, or where consequence ensues.
20. Place for trial where act is offence by reason of relation to other offence.
21. Place for inquiry or trial where scene of offence is uncertain; or offence not committed in one district only; or offence is continuing; or consists of several acts in different districts.
- Offence committed on journey or voyage.
22. Being a thug or dacoit.
- Escaping from custody.
- Criminal misappropriation and criminal breach of trust.
- Murder as a thug, dacoity, or dacoity with murder.
- Stealing cattle.
23. High Court to decide, in case of doubt, district where inquiry shall take place.
24. Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

## CHAPTER IV.

## OF COMPLAINTS TO A PRESIDENCY MAGISTRATE.

## SECTIONS.

25. When Presidency Magistrate may take cognizance of offences.
26. Who may make complaints.
27. Process to compel appearance.
28. Jurisdiction given by complaint.
29. Complaint or sanction required in certain cases.
30. Magistrate to examine complainant. Effect of omission.
31. Postponement of issue of process.
32. Dismissal of complaint.
33. Issue of process.
34. When summons may issue.
35. Where warrant or summons may issue on complaint.
36. Warrant to arrest, if summons not obeyed.
37. Magistrate may dispense with personal attendance of accused.

## CHAPTER V.

## OF PROSECUTIONS IN CERTAIN CASES.

38. Prosecutions for offences against the State.
39. Prosecution of Judges and public servants. Power of Government as to prosecution. Definitions of 'Government,' 'Judge,' and 'Public servant.'
40. Prosecution for contempts of the lawful authority of public servants
41. Sanction to prosecution for certain offences against public justice.
42. Sanction to prosecution for certain offences relating to documents given in evidence.
43. Nature of sanction necessary.
44. Procedure in cases mentioned in section 40, 41 or 42.
45. Prosecution for adultery. Prosecution for enticing away married woman.
46. Application to be deemed a complaint.

## CHAPTER VI.

## OF THE SUMMONS AND WARRANT.

47. Form of summons.
48. Summons how served.
49. Service when accused cannot be found. Service on servants of Government and Railway Companies.
50. Service of summons outside Presidency Towns.
51. Proof of service in such cases and when server not present.
52. Provisions applicable to all summonses under Act.
53. Issue of warrant in addition to summons.
54. Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.
55. Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.
56. Form of warrant. Force of warrant of arrest.
57. Fees for summonses and warrants. Power to remit fees.
58. When Magistrate may direct bail to be taken. Recognizance to be forwarded.

## SECTIONS.

59. Warrants to whom directed.
60. Warrant to several persons.
61. Execution of warrant by Police-officer other than the one addressed.
62. Magistrate issuing warrant may superintend its execution. Arrest in presence of Magistrate.
63. Where warrant may be executed.
64. Execution of warrant outside issuing Magistrate's jurisdiction.
65. Procedure on execution of warrant outside issuer's jurisdiction.
66. Magistrate and Police-officer.
67. Proclamation for person absconding. Proclamation how published. Evidence of publication.
68. Attachment of property of person absconding.
69. Restoration of forfeited property.

## CHAPTER VII.

## OF BAIL.

70. Custody of person arrested. When bail shall be taken.
71. When bail shall not be taken. When bail may be taken. Warrant for intermediate custody.
72. Recognizance of accused and sureties.
73. Discharge on bail.
74. Admission to bail after failure in first instance.
75. Power to order sufficient bail when that first taken is insufficient.
76. Discharge of sureties.
77. Procedure to compel payment of penalty by accused.
78. Procedure to compel payment of penalty by sureties.
79. In what cases powers given by sections 77 and 78 may be exercised. Remission of part of penalty.
80. Deposit instead of bail.

## CHAPTER VIII.

## OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

81. Procedure in preliminary inquiries.
82. Examination of complainant and witnesses for prosecution.
83. Examination to be in presence of accused. Procedure in inquiries preliminary to commitment. Accused may examine, cross-examine and re-examine.
84. Examination of accused how recorded.
85. Power of Magistrate to summon and examine any person.
86. Adjournment of inquiry and remand.
87. When accused person to be discharged.
88. When accused to be committed for trial.
89. Framing of charge on which accused is to be tried before High Court. Form of commitment. Charge, &c., to be forwarded to High Court. Commitment when to be notified.
90. Charge to be explained, and copy furnished, to accused.



## SECTIONS.

91. List of witnesses for defence on trial before High Court.  
Further list.  
Power to summon supplementary witnesses.
92. Summons to witnesses when accused person is to be committed.
93. Recognizances of complainants and witnesses.  
Detention in custody in case of refusal to attend or to execute recognizance.

## CHAPTER IX.

## OF THE CHARGE.

*Form of Charges.*

94. Charge to state offence.  
Specific name of offence sufficient description.  
How stated where offence has no specific name.  
What implied in charges.  
Language of charge.  
Previous conviction when to be set out.
95. Particulars as to time, place, and person.
96. When manner of committing offence must be stated.
97. Forms in schedule.
98. Effect of errors.
99. Prisoner may apply for amendment.
100. Magistrate may alter charge.
101. When trial may proceed immediately after alteration.
102. When new trial may be directed or trial suspended.  
Adjournment.
103. Recall of witnesses when charge altered.
104. Stay of proceedings if prosecution of offence in altered charge require previous sanction.

*Joinder of Charges.*

105. Separate charges for distinct offences.
106. More offences than one of same kind may be charged within a year of each other.
107. I.—Trial of more than one offence.  
II.—One offence falling within two definitions.  
III.—Acts severally constituting more than one offence, but collectively coming within one definition.
108. Where it is doubtful what offence has been committed.
109. When a person is charged with one offence, he can be convicted of another.
110. When offence proved included in offence charged.
111. What persons may be charged jointly.
112. Withdrawal of remaining charges, on conviction on one of several charges.

*Previous Acquittals or convictions*

113. Person once convicted or acquitted not to be tried for same offence.

## CHAPTER X.

## OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. Cases may be tried summarily.
115. Record of evidence.
116. Charge when dispensed with.  
Charge when necessary.

## SECTIONS.

117. Effect on proceedings of defect in complaint or process.
118. Dismissal or adjournment on non-appearance of complainant.
119. Procedure on appearance of parties.
120. Conviction on admission of truth of complaint.
121. Procedure when no such admission is made.
122. Procedure on examining accused.
123. Adjournment.
124. Compensation to person groundlessly given in charge or complained against.
125. Withdrawal of complaint.
126. Acquittal.  
Sentence.
127. Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.
128. Trial of persons previously convicted of offences against coinage, stamp law or property.

*General Provisions as to Inquiries and Trials.*

129. Permission to conduct prosecution.
130. Right of accused to be defended.
131. Procedure where accused does not understand proceedings.
132. Presidency Magistrates' Courts to be open.
133. Compounding offences.

## CHAPTER XI.

## OF EVIDENCE.

*A.—Of Securing the Attendance of Witnesses.*

134. Power to summon material witness or examine person present.
135. When warrant of arrest may issue in first instance.
136. Arrest of person disobeying summons.
137. Procedure when warrant cannot be served.
138. Attachment, &c., of property ordered to be attached under section 137.
139. Power to order prisoner in jail to be brought up for examination.
140. Power to order complainants, &c., to execute recognizances.
141. Committal of person refusing to answer.

*B.—Of Witnesses.*

142. In cases tried upon summons.
143. In cases tried upon warrant.

*C.—Of Securing Documentary Evidence.*

144. Summons to produce document required as evidence.
145. Issue of search-warrant in first instance.
146. Procedure as to letters and telegrams in custody of Postal Department or telegraph officer.
147. Power to impound document produced.

*D.—Of the Examination of Accused Persons.*

148. Examination of accused.
149. No influence to be used to induce disclosures.
150. Tender of pardon to accomplice.
151. Commitment of persons to whom pardon has been tendered.

*E.—Special Rules of Evidence.*

152. Deposition of medical witness.  
Power to summon medical witness.

## SECTIONS.

153. Report of Chemical Examiner.  
Genuineness of signature may be presumed.  
Power to summon chemical examiner.
154. Previous conviction or acquittal how proved.
155. Record of evidence in absence of accused
156. Convictions on evidence partly recorded by one Magistrate and partly by another.
157. When attendance of witness may be dispensed with.
158. Issue of commission and procedure thereunder.  
Commission in case of witness being within Presidency town.  
Complainant and accused may examine witness.  
Return of commission.

*F.—Of Search-Warrants.*

159. Search-warrant when grantable.
160. Search of house suspected to contain stolen property or forged documents.
161. Direction, &c. of search-warrants.
162. Persons in charge of closed house to allow search.
163. Place to be searched may be broken open.
164. Search of zanáná.
165. Search to be made in presence of witnesses.  
Occupant of place searched may attend.
166. Mode of searching women.

## CHAPTER XII.

## OF APPEALS.

167. Appeal by person convicted.
168. Appeal by Government from order of acquittal.
169. Copy of order to accompany petition.
170. Copies of proceedings.
171. Procedure when appellant in jail.
172. Procedure on receiving petition of appeal.  
Power to reject appeal summarily.  
Power to call for record.  
Sentence not to be enhanced when appeal rejected under this section.
173. Notice of day for hearing appeal.  
Service of notice.
174. High Court may alter or reverse finding and sentence, or enhance sentence.
175. Suspension of sentence pending appeal.  
Release of appellant on bail.
176. High Court may make or direct further inquiry.
177. Order when reversible by reason of error or defect in charge or proceedings.
178. Irregularity before trial properly held.
179. Procedure in case of conviction by Magistrate not having jurisdiction.
180. Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.
181. Notice to Public Prosecutor of intention to apply under Act X of 1875, section 147.
182. Magistrate may state grounds of his decision.

## CHAPTER XIII.

## OF EXECUTION.

183. Court to send accused, with warrant for execution of sentence, to officer in charge of jail.

## SECTIONS.

184. Form and direction of warrant of commitment.
185. Levy of fine.  
Section to what cases applicable.  
Detention of offender until return made to distress-warrant.  
Distress not illegal, nor distrainer a trespasser for defect of form in proceedings.  
Who may issue distress-warrant.
186. Payment of fine in compensation.
187. Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.
188. Mode of inflicting punishment of whipping.
189. Punishment not to be inflicted if offender not in fit state of health.  
Stay of execution.
190. Not to be executed by instalments.
191. Procedure if punishment cannot be inflicted under section 188.
192. Currency of sentence on escaped convicts.
193. Commencement of sentence on offender already sentenced for other offence.

## CHAPTER XIV.

## OF LUNATICS.

194. Procedure when accused is a lunatic.
195. When accused appears to have been insane.
196. Release of lunatic on bail.  
Custody when bail not given.
197. Resumption of inquiry or trial.
198. Procedure on accused appearing before Magistrate.
199. Finding in case of acquittal on ground of being lunatic.
200. Procedure when lunatic committed the act alleged.
201. Visiting of lunatic prisoners.
202. Procedure where lunatic prisoner reported capable of making defence.
203. Procedure where lunatic confined under section 199 is declared capable of being discharged.
204. Delivery of lunatic to care of relative.

## CHAPTER XV.

## OF CONTEMPTS OF COURT.

205. Procedure in certain cases of contempt.
206. Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.
207. Discharge of offender on submission or apology.

## CHAPTER XVI.

## OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

*A.—Security for keeping the Peace*

208. Personal recognizance to keep the peace in cases of conviction.
209. Sureties for keeping the peace.
210. Commencement of period during which person may be bound to keep the peace.
211. Extension of time for which person is bound.



## SECTIONS.

*B.—Security for good behaviour.*

212. When Magistrate may require security for good behaviour for six months.  
 213. When Magistrate may require security for good behaviour for one year.  
 214. Procedure where security required for more than one year.

*C.—Provisions as to both kinds of Security.*

215. Summons to person to show cause why he should not give bond to keep the peace or for good behaviour.  
 216. Contents of summons.  
 217. When warrant of arrest may issue.  
 218. Magistrate may dispense with personal attendance of person informed against.  
 219. Discharge of person informed against.  
 220. Order to give bond and consequence of non-compliance.  
 221. Proceedings to be laid before High Court.  
 222. Contents of order for security.  
     Form of recognizance.  
 223. Imprisonment in default of security.  
     Term of imprisonment.  
 224. Binding of sentenced person.  
 225. Release of prisoner under requisition of security.  
     Release of prisoner under requisition of security by order of High Court.  
 226. Discharge of sureties.  
 227. Commission, &c., of offence a breach.  
 228. Recovery of penalty from principal.  
 229. Recovery of penalty from surety.  
 230. Proof of previous conviction.  
 231. Where proceedings under this Chapter may be taken.  
 232. Provisions of Chapter not applying to European vagrants.

## CHAPTER XVII.

## OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Power to restore possession of immoveable property.

## CHAPTER XVIII.

## OF THE MAINTENANCE OF WIVES AND FAMILIES.

234. Order for maintenance of wives and children.  
     Enforcement of order.  
     Proviso.  
 235. Alteration in allowance.  
 236. Enforcement of order.

## CHAPTER XIX.

## MISCELLANEOUS.

237. Procedure in miscellaneous criminal cases and proceedings.  
 238. Offences against Railway, Telegraph, Post Office, and Arms' Acts.  
 239. Extent of jurisdiction.  
 240. Reference to High Court.  
 241. Disposal of case according to decision of High Court.  
     Direction as to costs.

## SECTIONS.

242. Order for disposal of property regarding which offence committed.  
 243. Power to order disposal of property connected with charge, in police-custody.  
 244. Expenses of complainants and witnesses.  
 245. All persons to give information of certain offences.  
 246. All persons to assist Magistrate and Police in certain cases.

## THE FIRST SCHEDULE—ENACTMENTS REPEALED.

## THE SECOND SCHEDULE—TABULAR STATEMENT OF OFFENCES.

## THE THIRD SCHEDULE—FORMS.

*A Bill to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.*

Whereas it is expedient to consolidate and amend the law regulating the procedure of the Courts of Magistrates in the Presidency towns, and to increase the jurisdiction of such Courts; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called "The Presidency Magistrates' Act, 1876:"  
     Short title.  
     Commencement. and it shall come into force on such day as the Governor-General in Council directs by notification in the *Gazette of India*.  
 2. On and from that day the Acts mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.  
 3. Nothing in this Act shall be deemed to restrict any power conferred by any special or local law.  
 4. The Court by which an offence is triable under this Act is indicated by the seventh column of the second schedule hereto annexed and by the third explanatory note prefixed to such schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section fourteen,

whether a warrant or a summons shall ordinarily issue in the first instance, and

whether the offence is bailable or not, are indicated respectively by the third, fourth, and fifth columns of the same schedule,

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Pending cases.

6. In this Act, unless there be something repugnant in the subject or context :—

Definitions.

"writing" includes print, lithography, photography, and engraving :

"bailable offence" means an offence for, and "bailable case," means a case in, which bail may be taken under any law in force for the time being :

"bailable offence or case."

the time being :

"non-bailable offence" means an offence for, and "non-bailable case" means a case in, which bail may not be taken under any law in force for the time being :

"non-bailable offence or case."

"chapter" means a chapter of this Act :

"place."

"place" includes also house, building, and vessel ; and words which refer to acts done extend also to illegal omissions.

Words referring to acts done.

## CHAPTER II.

### CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

Establishment of Presidency Magistrates' Courts.

7. The Local Government may, with the sanction of the Governor-General in Council,

(a) constitute within the towns of Calcutta, Madras, and Bombay respectively so many divisions as the said Government thinks fit,

(b) define the extent thereof respectively,

(c) from time to time alter the number of such divisions and their respective extents, and

(d) establish a Presidency Magistrate's Court for each of such divisions.

8. The Local Government may also from time to time appoint a sufficient number of fit persons to be Magistrates for the said towns respectively, and may suspend or remove any person so appointed.

Appointment of Presidency Magistrates.

Any such person may sit and act as a Magistrate in any of the said Courts.

Such persons shall be called Presidency Magistrates.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Presidency Magistrates to be Justices of the Peace.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Local limits of jurisdiction.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which under any law in force immediately before the passing of this Act may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Bombay Court of Petty Sessions.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate.

Appointment and powers of Chief Magistrate.

Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules consistent with this Act, to regulate the conduct of business and secure uniformity of practice in the Courts of the Presidency Magistrates.

Notwithstanding anything in the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

10. All references in any Act now in force to Magistrates of Police shall be deemed to be made to Presidency Magistrates.

References in Acts to Magistrates of Police.

11. Any Presidency Magistrate may pass the following sentences :—

Sentences which Presidency Magistrates may pass.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law) :

Fine not exceeding one thousand rupees :

Whipping.

A Presidency Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or the special or local law by which such offence is created.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine :

Imprisonment in default of payment of fine.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to cases decided by Magistrate.



Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

13. When a person is convicted, at one trial, Sentence in cases of simultaneous conviction of several offences. of two or more offences punishable under the same section, or different sections, of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

14. Offences punishable under any law, other Offence under enactments not specifying Court authorized to try. than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

15. When any offence is committed in the presence of a Presidency Magistrate, he may order any person to arrest the offender, and when the offender is arrested may commit him to custody, or, if the offence is bailable, may admit him to bail.

16. A Presidency Magistrate may record any Power to record statements and confessions. statement made to him at any place within the local limits of his jurisdiction by any person, or any confession made to him at any such place by any person accused of an offence.

Such statements and confessions shall be recorded in the manner prescribed in section 115 for recording evidence, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

Every confession shall be taken down as nearly as may be in the words used by the person making it, and shall be read over to him before it is recorded.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) A. B.,  
Presidency Magistrate.

17. Upon complaint made to a Presidency Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child Power to compel restoration of abducted females. under the age of fourteen years, for any unlawful

purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian, or other person having the lawful charge or government of such child, and may compel compliance with such order, using force if necessary.

### CHAPTER III.

#### THE PLACE OF INQUIRY AND TRIAL.

18. Every offence shall ordinarily be inquired into, and, if triable by a Magistrate, shall be tried in the Place for inquiry and trial of offence. district in which it was committed. If triable by a High Court, it shall (subject to the provisions of section 64A of the Code of Criminal Procedure) be tried by the High Court to which the Magistrate commits.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Act.

19. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or any such consequence has ensued.

#### Illustrations.

(a.) A is wounded in district X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(b.) A is wounded in district X, and is, during twenty days, unable to follow his ordinary pursuits in district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(c.) A is put in fear of injury in district X, and is thereby induced, in district Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in X or Y.

20. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be inquired into and tried, either in the district in which it was committed, or in the district in which the other act was committed.

#### Illustrations.

(a.) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(b.) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in the district in which any of them were at any time dishonestly received or retained.

(c.) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping, took place.

(d.) A, B, C, and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of their original concerted plan and with reference to their common object.

Place for inquiry or trial where scene of offence is uncertain;

or offence not committed in one district only;

where an offence is a continuing one and continues to be committed in more districts than one; or

or consists of several acts in different districts:

it may be inquired into and tried in any of such districts.

An offence committed on a journey or voyage may be inquired into and tried in any district through or into which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

**22.** The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into and tried wherever the accused person happens to be when the complaint is made.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

The offence of murder as a thug, dacoity, or dacoity with murder, may be inquired into and tried wherever the person accused happens to be when arrested, or in any other district in which he might be tried under any other provision of this Act, or any other law relating to the trial of such offence.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen, or in any other district through or into which it was conveyed.

**23.** Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

**24.** No sentence or order of any Criminal Court shall be liable to be set aside merely on the ground that the inquiry or trial was held in a wrong district, unless it is proved, or appears, that the accused person in his defence, or the prosecutor in his prosecution, was actually prejudiced by such error, in either of which cases a new trial may be ordered.

**21.** When it is uncertain in which of several districts an offence was committed; or

where an offence is committed partly in one district and partly in another; or

where an offence consists of several acts done in

#### CHAPTER IV.

##### OF COMPLAINTS TO A PRESIDENCY MAGISTRATE.

When Presidency Magistrate may take cognizance of offences.

**25.** A Presidency Magistrate may take cognizance of any offence—

- (a) upon a complaint by a private person,
- (b) upon information or report by a police-officer,
- (c) upon information received under section 245.

**26.** Any person acquainted with the facts of a case may make a complaint.

Every such information or report shall be regarded as a complaint.

**27.** On receipt of a complaint, a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance.

**28.** A complaint gives jurisdiction to a Presidency Magistrate to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial, and also to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed.

**29.** Nothing in sections 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint, of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

**30.** Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

**31.** If the Magistrate sees cause to distrust the truth of the complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made, either by means of any officer subordinate to such Magistrate, or of a local police-officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.



32. The Magistrate before whom the complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint. The dismissal of a complaint shall not prevent subsequent proceedings.

33. If it appears to such Magistrate that there is sufficient ground for proceeding, he shall issue his summons or his warrant (as the case may be) for causing the accused person to appear before him.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed, or is suspected of having committed—

(a) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

(b) any offence triable exclusively by the High Court, or which, in the opinion of such Magistrate, ought to be tried by the High Court,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

36. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the

Magistrate is satisfied that such summons was duly served in what he deems a reasonable time before the time therein appointed for appearing pursuant thereto,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

37. Whenever the Magistrate issues a summons, he may if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney, or pleader.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

## CHAPTER V.

### OF PROSECUTIONS IN CERTAIN CASES.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor-General in Council or the Local Government, or some officer empowered by the Governor-General in Council to order or authorize such complaint, or unless it be made by the Advocate-General.

39. A complaint of an offence of which any Judge, or any public servant not removable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction, or under the direction,

(a) of the Government, or

(b) of some officer empowered in this behalf by the Government, or

(c) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

In this section the expression 'Government' means either the Local Government or the Governor-General in Council, and the expressions 'Judge' and 'public servant' have the meaning assigned to them respectively by the Indian Penal Code.

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180, or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

**42.** A complaint of an offence relating to documents, described in section 463, 471, 475, or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any Civil or Criminal Court, shall not be received against a party to such proceedings by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

**43.** The sanction referred to in sections 40, 41, and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence is alleged to have been committed.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

**44.** When any Civil, Criminal, or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41, or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

The Court may send the accused person in custody, or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence in the case.

**45.** A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

**46.** The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

## CHAPTER VI.

### OF THE SUMMONS AND WARRANT.

**47.** Every summons issued by a Presidency Magistrate to an accused person shall be in writing signed by such Magistrate, and shall be in the form (A) given in the third schedule to this Act, or to the like effect.

**48.** If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Every person to whom a summons is delivered or tendered under this section, shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

**49.** If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left, shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

When the person summoned is in the service of Government or of any Government and Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

**50.** When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

**51.** When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved

(a) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(b) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(c) by a receipt under section 48.

**52.** The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

**53.** A Presidency Magistrate may, notwithstanding the issue of a summons under this Chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.



54. A Presidency Magistrate may issue a summons for the attendance, or

Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.

a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

either send such person to Magistrate within the local limits of whose jurisdiction the offence is alleged to have been committed, or, if the offence is bailable, take bail for his appearance before such Magistrate.

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency

Form of warrant.

Magistrate shall be in writing under his hand, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Every warrant issued under this Act remains in

Force of warrant of arrest.

force until it is cancelled by the Magistrate who issued it, or until it is executed.

57. A fee of eight annas shall be paid for

Fees for summonses and warrants.

every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Provided that such Magistrate may in any case

Power to remit fees.

remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

58. A Presidency Magistrate, in issuing a war-

When Magistrate may direct bail to be taken.

rant for the arrest of any person, may in his discretion direct by endorsement on the warrant that, if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

The endorsement shall state (a) the number of sureties, (b) the amount in which they and the accused person are to be respectively bound, and (c) the day on which he is to appear before the Magistrate.

Recognizance to be forwarded.

Magistrate.

If bail be taken, the said officer shall forward the recognizance to the Presidency Magistrate.

59. A warrant shall ordinarily be directed to a

Warrant to whom directed.

police-officer; but the Magistrate issuing a warrant may, if immediate execution be

necessary and no police-officer be immediately available, direct it to any other person.

60. A warrant may be directed to several per-

Warrant to several persons.

sons, and, when so directed, may be executed by all, or by any one or more of such persons.

61. A warrant directed to any police-officer

Execution of warrant by police-officer other than the one addressed.

may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

62. Any Presidency Magistrate who issues a

Magistrate issuing warrant may superintend its execution.

warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Any such Magistrate may also at any time

Arrest in presence of Magistrate.

direct the arrest, in his presence, of any person for whose arrest he may issue a warrant.

63. A warrant issued by a Presidency Magis-

Where warrant may be executed.

trate shall ordinarily be executed within the local limits of his jurisdiction.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a

Execution of warrant outside issuing Magistrate's jurisdiction.

warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for endorsement, either by post or by any police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall endorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a police-officer to whom it is directed, he may take it either to a Magistrate, or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period, not less than 30 days from the date of publishing the proclamation.

Such proclamation shall be published as follows—

(a) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(b) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(c) a copy thereof shall be affixed to some conspicuous part of such Magistrate's court-house.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the district in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in

which the land is situate, and, in all other cases, (a) by seizure under the order of the Magistrate having jurisdiction; or (b) by the appointment of a manager and receiver; or (c) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68, appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

## CHAPTER VII.

### OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that cases in which the Magistrate has power to inflict fine only, or imprisonment for a term not exceeding six months, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,



the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and if required, shall appear when called upon at the High Court, to answer the charge.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him, and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the accused person may be ordered by a Presidency Magistrate to find sufficient bail, and on failing so to do may be committed to prison.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the

sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

## CHAPTER VIII.

## OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

81. Cases triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which in the opinion of the Presidency Magistrate before whom the accused person is brought ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney, or pleader, the Magistrate shall at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 2, 3, and 4 of section 115.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney, or pleader (if any).

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

The accused person or his advocate, attorney, or pleader shall be permitted to examine his own witnesses, to cross-examine the complainant and his witnesses, and to re-examine his own witnesses, in accordance with the Indian Evidence Act, 1872.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

85. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and recall and re-examine any person already examined.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit, and remand the accused person for a reasonable time, not exceeding fifteen days.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

87. When a Presidency Magistrate finds that there are not sufficient grounds for committing the accused person for trial before the High Court, or for remanding him, he shall discharge him unless it appears to the Magistrate that such person should be tried before himself, in which case he shall proceed accordingly.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge shall not ordinarily be made until the evidence of the witnesses named for the prosecution has been taken.

88. When evidence has been given before a Presidency Magistrate which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such court, the accused person shall be committed for trial accordingly.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Court's Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of chapter IX.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect; and the charge, the record of the enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by



the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

90. As soon as the charge on which the accused person is to be tried has been prepared it shall be read and explained to him, and a copy thereof shall be furnished to him, if he so require.

Charge to be explained, and copy furnished, to accused.

91. The accused person shall be required at once to give in, orally or in writing, a list of the persons whom he wishes to be summoned to give evidence on his trial before the High Court.

List of witnesses for defence on trial before High Court.

The Magistrate may, if he thinks proper, summon all or any such persons to attend and give evidence at the inquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

The Magistrate may, in his discretion, allow the accused person to give in any further list of witnesses at a subsequent time.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Power to summon supplementary witnesses.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

92. When the person accused is to be committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Summons to witnesses when accused person is to be committed.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (H) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court to prosecute or to give evidence, as the case may be.

Recognizances of complainants and witnesses.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

## CHAPTER IX.

### OF THE CHARGE.

#### Form of Charges.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Charge to state offence.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

Specific name of offence sufficient description.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

How stated where offence has no specific name.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

What implied in charges.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Language of charge.

If the accused person has been previously convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (to authorize the punishment of whipping in certain cases), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Previous conviction when to be set out.

#### Illustrations.

(a.) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(b.) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(c.) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d.) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When manner of committing offence must be stated.

#### Illustrations.

(a.) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b.) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c.) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d.) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e.) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f.) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

97. The charge may be in the form given in the third schedule to this Act, or to the like effect.

Forms in schedule.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Effect of errors.

#### Illustrations.

(a.) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d.) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January, and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Prisoner may apply for amendment.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Magistrate may alter charge.

Every such alteration shall be read and explained to the accused person.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may, in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When trial may proceed immediately after alteration.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When new trial may be directed or trial suspended.

Adjournment.

103. In all cases of alteration of a charge the complainant and accused person shall be allowed to recall and examine, with reference to such alteration, any witness who may have been examined.

Recall of witnesses when charge altered.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

#### Joinder of Charges.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Separate charges for distinct offences.



*Illustration.*

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

**106.** When a person is accused of more offences than one of the same kind committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

**107. I.**—If in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried for, every such offence at the same time.

**II.**—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

**III.**—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

*Illustrations.*

To paragraph I.

(a.) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(b.) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(c.) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(d.) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(e.) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368, (read with 367) and 370 of the Indian Penal Code.

(f.) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(g.) A threatens B, C, and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(h.) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (a) to (h) respectively may be tried at the same time.

To paragraph II.

(i.) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(j.) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcass in order to take it dishonestly out of B's possession without B's consent. A may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(k.) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(l.) A dishonestly uses a forged document as genuine evidence in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

To paragraph III.

(m.) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(n.) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392, and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(o.) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

**108.** If a single act or series of acts is of such

Where it is doubtful a nature that it is doubtful what offence has been committed which of several offences committed.

the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

*Illustrations.*

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence he can be convicted of another.

*Illustration.*

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

*Illustrations.*

(a.) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b.) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

*Illustrations.*

(a.) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b.) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c.) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor, or other officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

*Previous Acquittals or Convictions.*

113. A person who has once been tried for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be

Person once convicted or acquitted not to be tried for same offence.

tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph 1.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

*Illustrations.*

(a.) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply or with criminal breach of trust.

(b.) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c.) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(d.) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(e.) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of this section.

(f.) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same acts.

(g.) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same fact.

## CHAPTER X.

### OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

In every such case the Magistrate shall record the following particulars:

- the serial number,
- the date of the commission of the offence,
- the name of the complainant,



- (d) the name of the accused person,
- (e) the offence complained of or proved,
- (f) the prisoner's plea,
- (g) the final order,
- (h) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months,

Record of evidence.

unless he has recorded the evidence of the witnesses.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

Where the Magistrate records such evidence, it shall be sufficient either to take it down with his own hand or to cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall be part of the record.

Evidence so taken down shall ordinarily be taken in the form of narrative, but the Magistrate may in his discretion take down, or cause to be taken down, any particular question or answer.

Every Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness while under examination.

116. In cases in which the Magistrate has power to impose fine only, or imprisonment for a term not exceeding six months, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, and which, from the facts proved, he appears to have committed.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

118. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless he thinks fit to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

119. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Procedure on appearance of parties.

120. If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Conviction on admission of truth of complaint.

121. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Procedure when no such admission is made.

Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *prima facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

122. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

123. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

If on the day to which such hearing or such further hearing has been so adjourned the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If on such day the complainant does not appear, the Magistrate may dismiss the complaint.

124. Whenever any person causes a police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate,

Compensation to person groundlessly given in charge or complained against.

if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation, awarded under this section may be recovered as if it were a fine.

125. If a complainant, at any time before a final order is passed in any case in which the Presidency Magistrate may impose fine only or imprisonment for a term not exceeding

Withdrawal of complaint.

six months, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

**126.** If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding fifty rupees, or both, he shall add to the final order mentioned in section 114, clause (g), a brief statement of the reasons for the conviction.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

**127.** If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

**128.** Whoever having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

#### *General Provisions as to Inquiries and Trials.*

**129.** A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate-General, Standing Counsel, and Government Solicitor shall be entitled to do so without such permission.

Any person conducting the case may do so personally or by an advocate, attorney, or pleader.

**130.** Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

**131.** If an accused person, though not insane, cannot be made to understand the proceedings, the Magistrate may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall

be forwarded to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

**132.** The place in which the court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

**133.** In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

## CHAPTER XI.

### OF EVIDENCE.

#### *A.—Of Securing the Attendance of Witnesses.*

**134.** Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

**135.** If a Presidency Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

**136.** If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

**137.** If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property



belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Attachment, &c., of property ordered to be attached under section 137.

139. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person in any case pending before him, any person confined in any jail within the local limits of his jurisdiction may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

Power to order prisoner in jail to be brought up for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Power to require complainants, &c., to execute recognizances.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

Committal of person refusing to answer.

#### B.—Of Witnesses.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

In cases tried upon summons.

(a) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(b) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

The Magistrate shall also summon any witness and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

#### C.—Of Securing Documentary Evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Issue of search-warrant in first instance.

146. If any letter in the custody of the Postal Department, or any telegram in the custody of any telegraph officer as defined in Act No. I of 1876, is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities or such telegraph officer (as the case may be) to deliver such letter or telegram to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

Procedure as to letters and telegrams in custody of Postal Department or telegraph officer.

The letter or telegram referred to in any direction given under this section shall be delivered accordingly.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

Power to impound document produced.

#### D.—Of the Examination of Accused Persons.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not

only in such inquiry or trial, but also in any other inquiry into or trial for any other offence which such answer may tend to show he has committed.

**149.** Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

**150.** A Presidency Magistrate may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

**151.** When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

#### *E.—Special Rules of Evidence.*

**152.** The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

**153.** Any document purporting to be a report from the chemical examiner, or assistant chemical examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

The Presidency Magistrate may, if he thinks fit, summon and examine such chemical examiner or assistant chemical examiner as to the subject-matter of his said report.

**154.** A previous conviction or acquittal may be proved (a) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (b) in case of a conviction by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted.

**155.** If an accused person abscond and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

**156.** Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial.

Provided that the accused person may when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

**157.** Whenever in the course of a trial under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

**158.** Such Magistrate may direct a commission to any Magistrate of the District or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take the evidence of such witness in the same manner, and may for this purpose exercise the same powers as in trials of warrant cases under the Code of Criminal Procedure.



If the witness is within the local limits of the Commission in case of jurisdiction of any Presidency Magistrate, other than witness being within Presidency town. the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

The complainant and the accused person may respectively forward interrogatories in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader, and may examine, cross-examine and re-examine (as the case may be) the said witness.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

#### F.—Of Search-warrants.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorize a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instru-

ments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any police-officer above the rank of a constable—

(a) to enter, with such assistance as may be required, and by force if necessary, such place, and

(b) to search the same as specified in the warrant, and

(c) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(d) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(e) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

161. The provisions of sections 59 to 62, both inclusive, shall apply to all search-warrants issued under this chapter.

162. Whenever any house or place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of such house or place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

163. A Police-officer or other person, authorized by a warrant to search any house or place, may break open any outer or inner door or window of such house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with

this section for preventing the clandestine removal of the thing mentioned in the warrant.

**165.** Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

**166.** Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

## CHAPTER XII.

### OF APPEALS.

**167.** Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees:

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

For the purposes of the Indian Limitation Act, 1871, all appeals under this section, and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

**168.** The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal, or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section, the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

**169.** Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

**170.** If any person affected by an order passed under this Act desires to have a copy of such order, or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith: provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

**171.** If the appellant be in jail, he shall be at liberty to present his petition of appeal and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

**172.** On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

In rejecting under this section an appeal by a person convicted, the High Court shall not enhance the sentence.

**173.** If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the Public Prosecutor, Government Solicitor, or other officer empowered by Government in that behalf, of the day on which such appeal will be heard, and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

All such notices shall be served in manner provided by this Act for serving a summons.

**174.** The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government solicitor or other officer empowered by Government in this behalf, if he appears, may—

- (a) alter or reverse the order of such Court, or
- (b) enhance any punishment that has been awarded, but not so as to inflict a greater punishment than is prescribed by law for the offence, or
- (c) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or



(d) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination, shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force.

#### Illustrations.

(a.) There is no appeal against an order refusing to grant compensation in case of a groundless complaint.

(b.) There is no appeal against an order requiring a person to furnish security to keep the peace.

(c.) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(d.) There is no appeal against an order of maintenance.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

### CHAPTER XIII.

#### OF EXECUTION.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (F) given in the third schedule to this Act, or to the like effect.

185. Whenever a fine is imposed under this Act, the Presidency Magistrate may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance with or without sureties as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

(a) for expenses properly incurred in the prosecution,

(b) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the

fifteen days, or in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

In no case, if the cat-o'-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or if there is not a medical officer present, unless it appears to the officer present, that the offender is in a fit state of health to undergo such punishment.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

190. No sentence of whipping shall be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is wholly or partially prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his discretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any period which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.



## CHAPTER XIV.

## OF LUNATICS.

**194.** \* When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officers as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

**195.** When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act, or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

**196.** Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

**197.** Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

**198.** If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

**199.** Whenever any person is acquitted by a Presidency Magistrate upon the ground that at the time at which such person is alleged to have committed an offence he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

**200.** Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

**201.** When any person is confined under the provisions of section 196 or 200, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the Local Government as to the state of mind of such person.

**202.** If such person is confined under section 196, and such Inspector-General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

**203.** If such person is confined under the provisions of section 200, and such Inspector-General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention, as it thinks fit.

**204.** Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained, shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the visitors of lunatic asylums under the said sections.

#### CHAPTER XV.

##### OF CONTEMPTS OF COURT.

**205.** When any such offence as is described in sections 175, 178, 179, 180, or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

**206.** If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence, and the statement of the accused person, shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

**207.** When any Presidency Magistrate has sentenced an offender to punishment or forwarded him to another Magistrate for trial for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the former Magistrate may discharge the offender or remit the punishment on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

#### CHAPTER XVI.

##### OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

##### A.—Security for keeping the Peace.

**208.** Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

**209.** Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term, not exceeding one year, as the Magistrate thinks fit.

**210.** If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs the judgment, the person so convicted must be produced before the Magistrate making such order.

**211.** Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period, not exceeding one year, from the expiration of the first year.

**EXPLANATION.**—When the subject of dispute or ground for apprehension is the same as that on



which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

*B.—Security for Good Behaviour.*

**212.** Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties for his good behaviour, for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

**213.** Whenever it is proved before a Presidency Magistrate that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property, knowing the same to have been stolen, or of notoriously bad livelihood, or of a dangerous character, such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year.

**214.** Whenever it is proved before a Presidency Magistrate that any person is an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property, knowing the same to have been stolen, or of a dangerous character, and that his release without security at the expiration of the limited period of one year would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

*C.—Provisions as to both kinds of Security.*

**215.** Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213, and 214, he may summon such person to attend at a time and place mentioned in the summons to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

**EXPLANATION I.**—A summons calling on a person to show cause why he should not execute such recognizance may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

**EXPLANATION II.**—A Magistrate may, if he thinks fit, recall any summons issued under this section.

**216.** Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace, or to be one of the persons referred to in sections 212, 213, and 214, is present in Court, no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

**217.** If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant), that there is reason to fear the commission of a breach of the peace which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

**218.** The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney, or pleader.

**219.** If, on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney, or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace or to be of good behaviour, the Magistrate shall direct his discharge.

**220.** If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

**221.** If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence

which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

**222.** Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force shall be stated in the order, and the recognizance shall be in the form (H) or (I), as the case may be, given in the third schedule hereto annexed, or to the like effect.

**223.** In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

*Imprisonment in default of security.*

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

*Term of imprisonment.* Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

**224.** If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

*Binding of sentenced person.*

**225.** A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

*Release of prisoners under requisition of security.*

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

*Release of prisoner under requisition of security by order of High Court.*

**226.** A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

*Discharge of sureties.*

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

**227.** The commission, or attempt to commit, or the abetment, of any offence whatever, and where-ever it may be committed, is a breach of the recognizance.

*Commission, &c., of offence a breach.*

**228.** Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof and

*Recovery of penalty from principal.*

call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

**229.** Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

*Recovery of penalty from surety.*

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

**230.** Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 153.

*Proof of previous conviction.*

**231.** Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

*Where proceedings under this chapter may be taken.*

**232.** The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

*Provisions of chapter not applying to European vagrants.*

## CHAPTER XVII.

### OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

**233.** Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that by such criminal force any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

*Power to restore possession of immoveable property.*



No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

#### CHAPTER XVIII.

##### OF THE MAINTENANCE OF WIVES AND FAMILIES.

**234.** If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife or child, or both, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

**235.** On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

**236.** A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

#### CHAPTER XIX.

##### MISCELLANEOUS.

**237.** The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

**238.** All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post-Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

**239.** The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

**240.** A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and pending such decision by the High Court, may either commit the accused person to jail, or release him on bail to appear for judgment when called upon.

**241.** When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

The High Court may direct by whom the costs of the reference shall be paid.

**242.** When the enquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

**EXPLANATION.**—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

**243.** If any property alleged to be stolen or fraudulently obtained is in the custody of any police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty, or if any property has been seized by a police-officer under Chapter XI,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him so that the suit be instituted within six months next after such order has been made.

244. Subject to any rules that may be made by the Local Government with the previous sanction of the Governor-General in Council, a Presidency Magistrate may order payment, on the part of Government, of the reasonable expenses of any complainant or witnesses attending for the purpose of any trial under this Act.

245. Every person aware of the commission within the local limits of the jurisdiction of a Presidency Magistrate of any offence.

made punishable under sections 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest police-officer or Presidency Magistrate.

246. Within such local limits every person is bound to assist a Presidency Magistrate or police-officer demanding his aid in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or police-officer is authorized to arrest.

### SCHEDULE I.

#### ACTS REPEALED.

(SEE SECTION 2.)

Number and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and." Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one hundred to one hundred and four (both inclusive), one hundred and six, one hundred and eight, to one hundred and eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five, and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations.	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.



## SCHEDULE II.

## TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

**EXPLANATORY NOTES.**—1st.—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

## CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto	Ditto	Ditto	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto	Ditto.

## CHAPTER V.—OF ABETMENT.—(Continued.)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable ...	Imprisonment of either description for 7 years and fine.	By the Court by which the offence abetted is triable.
116	If an act which causes harm be done in consequence of the abetment. Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ... Ditto ...	Ditto ... Ditto ...	Ditto ... According as the offence abetted is bailable or not.	Imprisonment of either description for 14 years and fine. Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto. Ditto.
117	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence. Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ... Ditto ...	Ditto ... Ditto ...	Ditto ... Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both. Imprisonment of either description for 3 years, or fine, or both.	Ditto. Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed. If the offence be not committed ...	Ditto ... Ditto ...	Ditto ... Ditto ...	Not bailable ... Ditto ...	Imprisonment of either description for 7 years and fine. Imprisonment of either description for 3 years and fine.	Ditto. Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed. If the offence be punishable with death or transportation.	Ditto ... Ditto ...	Ditto ... Ditto ...	According as the offence abetted is bailable or not. Not bailable ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both. Imprisonment of either description for 10 years.	Ditto. Ditto.



<i>If the offence be not committed ...</i>	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120 Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	Ditto ...	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
If not committed ...	Ditto	Ditto	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.						
	Shall not arrest without warrant.	Warrant	Not bailable ...	Death, or transportation for life, and forfeiture of property.	High Court.	
121 Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Ditto ...	Ditto	Ditto ...	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.	
121A Conspiring to commit certain offences against the State.	Ditto	Ditto	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.	
122 Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.	
123 Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.	
124 Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.	
124A Exciting, or attempting to excite, disaffection..	Ditto	Ditto	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.	
125 Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.	
126 Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto ...	Ditto ditto ...	Ditto.	
127 Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto	Ditto	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.	
128 Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto ...			

## CHAPTER VI.—OFFENCES AGAINST THE STATE—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Shall not arrest without war-rant.	Warrant ...	Bailable ...	Simple imprisonment for 3 years and fine ...	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

## CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

1	2	3	4	5	6	7
Section.	OFFENCE.	May arrest without war-rant.	Warrant ...	Not bailable ...	Punishment	By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
134	Abetment of such assault, if the assault is committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier, or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto ditto ...	Ditto.
137	Deserter concealed on board merchant-vessel through negligence of master or person in charge thereof.	Shall not arrest without war-rant.	Summons ...	Ditto ...	Fine of 500 rupees ...	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without war-rant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.



## CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY.

143	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
144	Being member of an unlawful assembly	...	Summons	...	...	Magistrate.
145	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
146	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	...	Ditto	Ditto.
147	Rioting	Ditto	Ditto	...	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	...	The same as for the offence	By the Court which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	Ditto	According to the offence committed by the person hired, engaged, or employed.	Summons	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto	Summons	...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

## CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY—concluded.

1	2	3	4	5	6	7.
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Fine of 1,000 rupees ...	Magistrate.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ..	Ditto ...	Ditto ...	Fine ...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
157	Harbours persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	Or to go armed ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Ditto.

## CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.



164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
168	Public servant unlawfully engaging in trade ...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant ...	May arrest without warrant.	...	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

## CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	...	Summons	...	Bailable	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
173	If summons or notice require attendance in person, &c., in a Court of Justice. Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	If summons, &c., require attendance in person, &c., in a Court of Justice. Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority. If the order require personal attendance, &c., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
		Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
		Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

## CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
175	Intentionally emitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
176	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ditto ...	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.



178	Refusing oath when duly required to take oath by a public servant.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	...	Warrant	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	...	Summons	...	Ditto	...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.

## CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed. If such disobedience causes danger to human life, health, or safety, &c.	Shall not arrest without warrant.	Summons ...	Bailable	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Magistrate.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
					Imprisonment of either description for 1 year, or fine, or both.	Ditto.

## CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
194	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
195	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto	Death, or as above	Ditto.
	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than 7 years.	Ditto ...	Ditto ...	Ditto	The same as for the offence	Ditto.



196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto	...	Ditto	...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	...	Ditto	...	Bailable	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence. If punishable with transportation, or imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with less than 10 years' imprisonment.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
		Ditto	...	Ditto	...	Ditto	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	...	Summons	...	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto	...	Warrant	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	...	Ditto	...	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

## CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
209	False claim in a Court of Justice...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.



214	If punishable with transportation for life, or with imprisonment for 10 years.  If with imprisonment for less than 10 years ...  Gift made to cause restoration of property in consideration of screening offender if the offence be capital. If punishable with transportation for life, or with imprisonment for 10 years.  If with imprisonment for less than 10 years ...	Ditto ... Ditto ...  Ditto ... Ditto ... Ditto ...  Ditto ...	Ditto ... Ditto ...  Ditto ... Ditto ... Ditto ...  Ditto ...	... ...  ... ... ...  ...	Ditto ... Ditto ...  Ditto ... Ditto ... Ditto ...  Ditto ...	Imprisonment of either description for 3 years and fine.  Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.  Imprisonment of either description for 7 years and fine.  Imprisonment of either description for 3 years and fine.  Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.  Imprisonment of either description for 2 years, or fine, or both.  Imprisonment of either description for 7 years and fine.  Imprisonment of either description for 3 years and fine.  Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.  Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate. By a Magistrate or by the Court by which the offence is triable. High Court.  High Court or Magistrate. By a Magistrate or by the Court by which the offence is triable. Magistrate.  High Court or Magistrate. Ditto.  By a Magistrate or by the Court by which the offence is triable. Magistrate.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
216	Harbours an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.  If punishable with transportation for life, or with imprisonment for 10 years.  If with imprisonment for 1 year, and not for 10 years.	May arrest without warrant.  Ditto ... Ditto ...	Ditto ... Ditto ...	...	Ditto ... Ditto ...	Imprisonment of either description for 7 years and fine.  Imprisonment of either description for 3 years and fine.  Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	High Court or Magistrate. Ditto.  By a Magistrate or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ..	Ditto ...	Ditto ...	Ditto ditto ...	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
222	If with imprisonment for less than 10 years ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, with or without fine.	Magistrate.
	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	10 under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.



225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody. If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...
	If charged with a capital offence	Ditto	...	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for 3 years and fine.	...	High Court or Magistrate.	...
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine.	...	High Court.	...
	If under sentence of death	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.	...
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto	...	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for one year, or fine, or both.	...	Magistrate.	...
226	Unlawful return from transportation	Ditto	...	Ditto	...	Ditto	...	Not bailable	...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	...	High Court.	...
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	...	Summons	...	Ditto	...	Ditto	...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	...	By the Court by which the original offence was triable.	...
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	...	Ditto	...	Ditto	...	Bailable	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	...	Court in which the offence is committed, subject to the provisions contained in Chapter XXXII of the Code of Criminal Procedure.	...
229	Personation of a juror or assessor	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	...	Magistrate of Police.	...

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
231	Counterfeiting, or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin ... ..	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting, out of British India, of coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.



243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	...	Ditto	...	Ditto	...	Ditto	High Court.
245	Unlawfully taking from a mint any coining instrument.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	High Court or Magistrate.

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—(Concluded.)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
260	Using as genuine a Government stamp known to be counterfeit.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

## CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
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270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 500 rupees ...	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
281	Exhibition of a false light, mark, or buoy ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees ...	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.



## CHAPTER XV.—OFFENCES RELATING TO RELIGION.

	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
295 Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.					
296 Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297 Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298 Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

*Offences affecting life.*

	May arrest without warrant.	Warrant	Not bailable	Death, transportation for life and fine	High Court.
302 Murder					
303 Murder by a person under sentence of transportation for life.	Ditto	Ditto	Ditto	Death	Ditto.
304 Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c. If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
304A Causing death by rash or negligent act	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
305 Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Imprisonment of either description for 2 years, or fine, or both. Death, or transportation for life, or imprisonment for 10 years and fine.	High Court or Magistrate. High Court.

## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.

## Offences affecting life—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
306	Abetting the commission of suicide	...	Warrant	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year and fine	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

## Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

Section.	OFFENCE.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
312	Causing miscarriage	...	...	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.



317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Ditto	...	Bailable	...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
<i>Of Hurt.</i>								
323	Voluntarily causing hurt	...	...	...	...	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	...	Not bailable	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	...	Ditto	...	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	...	Bailable	...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	...	Bailable	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	Ditto	...	Not bailable	...	Imprisonment of either description for 10 years and fine.	High Court.

## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.

## Of Hurt—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons ...	Bailable	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

## Of wrongful Restraint and wrongful Confinement.

341	Wrongfully restraining any person	May arrest without warrant.	Summons ...	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days...	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days ...	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.



346	Wrongful confinement in secret	...	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	...	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	...	Ditto	Ditto	...	Ditto	...	Ditto	...	Ditto.

*Of Criminal Force and Assault.*

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	...	Not bailable	...	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	...	Bailable	...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

*Of Kidnapping, Forcible Abduction, Slavery and forced Labour.*

363	Kidnapping	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
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## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—concluded.

*Of Kidnapping, Forcible Abduction, Slavery and forced Labour—concluded.*

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
364	Kidnapping or abducting in order to murder ...	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage, or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction ...	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave...	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto ...	Ditto.
371	Habitual dealing in slaves ...	May arrest without warrant.	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
374	Unlawful compulsory labour. ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

*Of Rape.*

Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
376	Rape ...	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.



*Of Unnatural Offences.*

377	Unnatural offences ... ..	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
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## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

*Of Theft.*

379	Theft ... ..	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent, or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine	High Court.

*Of Extortion.*

384	Extortion ... ..	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—continued.

## Of Extortion—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
389	If the offence threatened be an unnatural offence putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Transportation for life ...	Ditto.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life ...	Ditto.

## Of Robbery and Dacoity.

Section.	OFFENCE.	May arrest without warrant.	Warrant	Not bailable ...	Punishment	By what Court or Magistrate.
392	Robbery	...	...	Not bailable ...	Rigorous imprisonment for 10 years and fine ...	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years and fine ...	Ditto.
393	Attempt to commit robbery	...	...	Ditto ...	Rigorous imprisonment for 7 years and fine ...	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	...	...	Ditto ...	Ditto ...	High Court.
396	Murder in dacoity	...	...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	...	...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	...	...	Ditto ...	Ditto ...	Ditto.



399	Making preparation to commit dacoity	...	Ditto	...	Ditto	...	Rigorous imprisonment for 10 years and fine ...	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	...	Ditto	...	Ditto	...	Transportation for life, or as above ...	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	...	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years and fine ...	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	...	Ditto	...	Ditto	...	Ditto ...	Ditto.

*Of Criminal Misappropriation of Property.*

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it. If by clerk or person employed by deceased ...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
		Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

*Of Criminal Breach of Trust.*

406	Criminal breach of trust	May arrest without warrant.	Warrant	...	Not bailable	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	...	Ditto	...	Ditto ...	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—continued.

*Of the Receiving of Stolen Property.*

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

*Of Cheating.*

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

*Of Fraudulent Deeds and Dispositions of Property.*

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
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422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	...	...	...	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	...	...	...	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	...	...	...	Ditto.

  

<i>Of Mischief.</i>													
426	Mischief	...	...	...	...	...	Shall not arrest without warrant.	Summons	...	Bailable	...	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	...	...	...	...	...	Ditto	Warrant	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of ten rupees or upwards.	...	...	...	...	...	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	...	...	...	...	...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	...	...	...	...	...	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	...	...	...	...	...	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	...	...	...	...	...	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	...	...	...	...	...	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	...	...	...	...	...	Shall not arrest without warrant.	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—concluded.

*Of Mischief—concluded.*

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section, when committed by fire or any explosive substance.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.

*Of Criminal Trespass.*

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.



	If the offence is theft	Ditto	...	Ditto	...	Not bailable	...	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	...	Ditto	...	Bailable	...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

463	Forgery ...	...	...	...	Shall not arrest without war- rant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	High Court.
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## CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—concluded.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Shall not arrest without warrant.	Warrant ...	Not bailable...	Imprisonment of either description for 7 years and fine.	High Court.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c. When the valuable security is a promissory note of the Government of India.	Ditto ... May arrest without warrant. Shall not arrest without warrant.	Ditto ... Ditto ... Ditto ...	Ditto ... Ditto ... Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine. Ditto ... Imprisonment of either description for 7 years and fine.	Ditto Ditto Ditto
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ...	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery ...	Ditto
471	Using as genuine a forged document which is known to be forged. When the forged document is a promissory note of the Government of India.	Ditto ... May arrest without warrant.	Ditto ... Ditto ...	Not bailable ...	Ditto ...	Ditto
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeited.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine. If the document is a valuable security it will ...	Ditto ... Ditto ...	Ditto ... Ditto ...	Ditto ... Ditto ...	Ditto ... Transportation for life, or as above ...	Ditto. Ditto.



475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material ...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material ...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	...	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	...	Ditto	...	Ditto	...	Transportation for life, or imprisonment of either description for 7 years and fine.	...	Ditto.

*Of Trade and Property-Marks.*

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	...	Bailable	...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Summons	...	Ditto	...	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark	Ditto	Ditto	...	Ditto	...	Ditto	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto	Ditto	...	Ditto	...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

## CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Section.	2	3	4	5	6	7
	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ..	Ditto ...	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

## CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

	Shall not arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years and fine.	High Court.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	...	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the lifetime of a husband or wife.	Ditto ...	Bailable	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Not bailable...	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto ...	Bailable.	Imprisonment of either description for 5 years, or fine, or both.	Ditto.





## CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

## OFFENCES AGAINST OTHER LAWS.

	May arrest without warrant.	Warrant	Not bailable ...	High Court.
If punishable with death, transportation, or imprisonment for seven years or upwards.	Ditto ...	Ditto	Ditto	High Court or Magistrate.
If punishable with imprisonment for three years and upwards, but less than seven.	Shall not arrest without warrant.	Summons	Bailable	Magistrate.
If punishable with imprisonment for less than three years.	Ditto ...	Ditto	Ditto	Ditto.
If punishable with fine only	...	...	...	...



## SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS, AND  
RECOGNIZANCES.

## A.

## FORM OF SUMMONS (section 47).

To A. B., of

WHEREAS complaint has this day been made before the undersigned Presidency Magistrate for the town of that you on the day of 187 at (state shortly the offence complained of) contrary to section of the Indian Penal Code [or of Act No. of 18, as the case may be]: You are hereby required to appear in person [or by advocate, attorney or pleader, as the case may be] on the day of 187, at o'clock in the forenoon [or afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint, and to be further dealt with accordingly to law.

Dated the

day of

(Signed) C. D.

Presidency Magistrate.

## B.

## FORM OF WARRANT OF ARREST (section 56).

To (name and designation of the person who is to execute the warrant).

WHEREAS of is accused of the offence of (state the offence): You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(Signature.)

[This warrant may be endorsed as follows:—]

If the said shall give bail, himself in the sum of, with one surety in the sum of (or two sureties each in the sum of), to appear before me on the day of, he may be released.

(Signature.)

Dated

## C.

FORM OF WARRANT OF COMMITMENT FOR  
INTERMEDIATE CUSTODY (section 71).

To the officer in charge of the

WHEREAS of is accused of ( ) you are hereby required to receive the said into your custody, and to produce him before by whom [or which] the offence of which he is accused is to be tried [or enquired into] from time to time when so required.

## D.

## FORM OF RECOGNIZANCE (section 72).

We A. B. of, C. D. of and E. F. do hereby bind ourselves jointly and severally that the said A. B. will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when

called upon at the High Court of Judicature at to answer the charge, and in case of the said A. B. making default herein, we the said A. B., C. D., and E. F. bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors, the sum of rupees.

(Signature.)

Dated the day of 187

## E.

FORM OF WARRANT OF COMMITMENT FOR INTER-  
MEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH  
COURT (section 89).

To, the officer in charge of the Jail.

WHEREAS of is charged with (state the offence in respect of which the prisoner is charged), and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(Signature.)

(Office and powers)

Dated

## F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE  
EVIDENCE (section 93).

I, of, do hereby bind myself to appear at, in the Court of, at o'clock on the day of next, and then and there to prosecute (or as the case may be, to prosecute and give evidence, or to give evidence) in the matter of a charge of against one A. B., and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors, the sum of rupees.

(Signature.)

Dated

## G.

FORM OF WARRANT OF COMMITMENT AFTER SEN-  
TENCE (section 183).

To, the officer in charge of the Jail.

WHEREAS of was convicted before me (name and official designation) of the offence of (mention the offence, quoting Act and section) and was sentenced to (state the punishment fully and distinctly, mentioning its nature and extent): You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(Signature.)

Dated the day of

## H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE  
(section 222).

WHEREAS I, A. B., [or we A. B., C. D., etc.], of, have been called upon to enter into a

bond to keep the peace for the term of \_\_\_\_\_, I hereby bind myself [or each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [or any of us] making default therein, I bind myself [or he binds himself] to forfeit to Her Majesty, her heirs and successors, the sum of \_\_\_\_\_ rupees.

(Signature.)

Dated \_\_\_\_\_

**FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.**

I, E. F. of \_\_\_\_\_ hereby declare myself surety for the above-mentioned A. B., that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors, the sum of \_\_\_\_\_ rupees.

(Signature.)

Dated \_\_\_\_\_

**I.**

**FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR**  
(section 222.)

WHEREAS I, \_\_\_\_\_, inhabitant of \_\_\_\_\_, have been called to enter into a bond to be of good behaviour to Her Majesty, and to all her subjects, for the term of \_\_\_\_\_, I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors, the sum of \_\_\_\_\_ rupees.

(Signature.)

Dated \_\_\_\_\_

**FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.**

I HEREBY declare myself surety for the above-said \_\_\_\_\_, that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors, the sum of \_\_\_\_\_ rupees.

(Signature.)

Dated \_\_\_\_\_

**CHARGES.**

(See section 97.)

**(I.)—CHARGES WITH ONE HEAD.**

(a.) I [name and office of Magistrate, &c.] hereby charge you, [name of accused person], as follows:—

(b.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

(c.) And I hereby direct that you be tried by the said Court on the said charge.

[Signature of the Magistrate.]

[To be substituted for (b).]

(2.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with the intention of inducing the Honorable B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

(3.) That you, being a public servant in the \_\_\_\_\_ Department, directly accepted from [state the name] for another party [state the name] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

(4.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed culpable homicide not amounting to murder, causing the death of \_\_\_\_\_, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

(5.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, abetted the commission of suicide by A. B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

(6.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, voluntarily caused grievous hurt to \_\_\_\_\_, and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

(7.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

(8.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

(9.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, did (or omitted to do, as the case may be) \_\_\_\_\_, such conduct being contrary to the provisions of Act \_\_\_\_\_, section \_\_\_\_\_, and was known by you to be prejudicial to \_\_\_\_\_, and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

(10.) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_ before \_\_\_\_\_, stated in evidence that "\_\_\_\_\_," which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable



under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

[In cases tried by Magistrates substitute "within my cognizance" for "within the cognizance of the High Court." In (c) omit "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(a.) I, [name and office of Magistrate, &c.] hereby charge you [name of accused person], as follows:—

(b.) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

*Secondly.*—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(c.) And I hereby commit you to the said Court to be tried on the said charge.

[Signature of the Magistrate.]

For (b) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

*Secondly.*—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (b) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable

under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

*Secondly.*—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person, in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

*Thirdly.*—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

*Fourthly.*—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

For (b). That you, on or about the day of

Alternative charges on at , in the section 193. course of the inquiry into before

stated in evidence that "

" and that you, on or about the day of , at , in the course of the trial of , before , stated in evidence that " , one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

In trials before Magistrates, substitute "within my cognizance," for "within the cognizance of the High Court;" and omit "by the said Court."

WHITLEY STOKES,

Secy. to the Govt. of India



# The Calcutta Gazette.

WEDNESDAY, JULY 12, 1876.

## PART VI.

### Bills of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced, into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in four months :—

No. 6 of 1876.

*A Bill to amend the Indian Registration Act, 1871.*

For the purpose of amending the Indian Registration Act, 1871; It is hereby enacted as follows :—

Amendment of Act VIII of 1871, section 7.  
1. For section seven the following shall be substituted :—

Offices of Registrar and Sub-Registrar.  
“7. The Local Government shall establish in every district an office to be styled the office of the Registrar, and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars,

and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar,

and may authorize any Sub-Registrar whose Office has been so amalgamated to exercise and perform all or any of the powers and duties of a Registrar other than the powers conferred by sections sixty-eight and seventy-two.”

Addition of clause (d) to section 17.  
2. In section seventeen, after clause (c), the following clause shall be inserted (namely) :—

“or (d) to any document merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or

extinguish any right, title or interest of the value of one hundred rupees and upwards, to or in immoveable property.”

Amendment of section 18, clause (7).  
3. In section eighteen, to clause (7) the words “All such” shall be prefixed, and for the last seven words of the same clause the following words shall be substituted (namely): “and other documents as are not required by section seventeen to be registered.”

Addition to section 30, clause (b).  
4. In section thirty, clause (b), after the word “Town,” the words “and the Registrar of the Lahore District” shall be inserted.

Amendment of section 31.  
5. For section thirty-one the following shall be substituted (namely):—

“31. In ordinary cases the presentation or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

But such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.”

Addition to section 34.  
6. To section thirty-four, paragraph first, the following words shall be added (namely): “under sections twenty-three, twenty-four, twenty-five and twenty-six;” and in clause two of the same section, after the word “fee,” the following words shall be inserted (namely): “in addition to the fine (if any) payable under section twenty-four.”



7. For sections forty-two, forty-three, forty-four and forty-five, the following shall be substituted, namely:—

Amendment of sections 42 to 45.

"42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any), and with a statement of the nature of the document.

Deposit of wills in sealed covers.

"43. On receiving such cover the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

Procedure on depositing wills.

The Registrar shall then place and retain the cover in his fireproof box.

"44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit; and such Registrar, if he be satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Withdrawal of covers containing wills.

"45. If on the death of a testator who has deposited a sealed cover under section forty-two, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall in the applicant's presence open the cover, and at the applicant's expense cause the contents thereof to be copied into his Book No. 3."

Procedure on testator's death.

8. In section forty-six, for the second sentence, the following shall be substituted (namely): "But whenever any such order is made, the Registrar shall, unless the will has already been copied under section forty-five, open the cover and copy the will in his Book No. 3, and shall make a note in such book that the original has been removed into Court in pursuance of the order aforesaid."

Amendment of section 46.

9. To section fifty the following words shall be prefixed (namely): "Every document mentioned in clauses (1), (2), (3) and (4) of section seventeen, and."

Addition to section 50.

10. In section fifty-nine for the words "the last preceding section," the word, "sections fifty-two and fifty-eight" shall be substituted.

Amendment of section 59.

11. In section sixty-four, and in the first paragraph of section sixty-five after the word "document," the words "not testamentary" shall be inserted.

Addition to sections 64 and 65.

12. In section seventy-one, for clause two, the following shall be substituted (namely):—

Amendment of section 71, clause 2.

"except on the ground—

"(a) that the property to which it relates is not situate within his district or sub-district; or

"(b) that he is a Registrar and that the document ought to be registered in the Office of a Sub-Registrar."

13. To section seventy-three the following explanation shall be added (namely):—

Addition to section 73.

"EXPLANATION.—In this section 'District Court' means the principal Civil Court of original jurisdiction within the local limits of which is situate the Office in which the order of refusal was made."

14. In this Act 'section' means section of the said Indian Registration Act, 1871.

'Section' defined.

#### STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make in the Registration Act thirteen amendments which the experience of the past five years has shown to be desirable.

Of these, the first is intended to authorize the Local Governments to establish in each sub-district more Sub-Registrars than one, who will exercise concurrent jurisdiction. The absence of such a power has been found inconvenient in the Lower Provinces, and probably elsewhere. Power is also expressly given to authorize any Sub-Registrar whose Office has been amalgamated with that of a Registrar to exercise all the powers of a Registrar other than those conferred by sections 68 and 72. Some doubt had arisen whether or no such a power was implied.

The second embodies in section seventeen of the Act the resolution of the Government of India in the Home Department, No. 51-1906, dated 10th July 1874. Its effect is to expressly exempt from compulsory registration documents merely creating a right to obtain other documents, which will, when executed, create, &c., rights of the value of Rs. 100 and upwards to immoveable property.

The third is intended to make it clear that section 18, clause (7), is not to encroach upon the provisions of section 17.

The fourth places the Registrar of the Lahore District on the same footing, as regards documents relating to land situate in any part of British India, as the Registrars of Districts including the Presidency Towns. This change has been made on the recommendation of the Local Government.

The fifth simply amends the drafting of section 31 of the Act.

The sixth expresses distinctly two of the intentions of the legislature in framing section 34 of the Act, viz. that the time allowed for presentation is the time allowed under the first four sections of Part IV, i.e., not merely the time (four months) ordinarily allowed, but also any extension of that period allowed under sections 24, 25, 26, and that, not only the fine mentioned in section 34, but the fines, if any, payable under section 24, must be paid in case of delay in appearing before the Registrar.

The seventh amends the drafting of sections 42 and 43, and expressly confines, in accordance with the intention of the framers of Act VIII of 1871, sections 44 and 45 to cases in which the testator himself, as distinguished from a depositing agent, desires to withdraw the deposit, or has died.

The eighth exempts the Registrar from the duty of copying a will under section 46 when it has already been copied under section 45; and when he has to copy a will, expressly empowers him to open the sealed cover in which it is preserved.

The ninth is an amendment of section 50, and is intended to supply a defect which has already given rise to fraudulent practices. That section now provides that registered documents relating to land, of which the registration is optional, shall take effect against unregistered documents. But it makes no such provision as to documents of which the registration is compulsory and which have accordingly been registered. Deeds coming under section 18 of the Act, whether registered or not, take effect against deeds registered under section 17, according to date of execution. The result is that, although a registered deed creating a right of the value of Rs. 99 to land cannot be defeated by an unregistered deed, a registered deed creating a similar right worth Rs. 101 may be defeated by an antedated unregistered deed creating a right worth anything under Rs. 100. The mischief feared is an extensive fabrication of falsely dated deeds purporting to create rights of small value in order to defeat deeds creating rights of large value. The remedy which the Bill proposes is to make documents registered under section 17 take effect against unregistered documents.

The tenth amendment is in section 59. That section now provides only for dating and signing endorsements made under section 58. It is desirable to make a similar provision for endorsements made under section 52.

The eleventh amendment consists in expressly excluding wills and codicils from sections 64 and 65.

The twelfth amendment effects a slight, but desirable, amendment in the drafting of section 71.

The thirteenth and last amendment clears up a doubt which has been raised as to the meaning in section 72 of the expression "District Court."

SIMLA; } A. HOBHOUSE.  
The 5th June 1876. }  
WHITLEY STOKES,  
Secy. to the Govt. of India.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th June 1876, and was referred to a Select Committee with instructions to make their report thereon in a month :—

No. 9 of 1876.

*A Bill to amend the Stage Carriages' Act.*

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows :—

1. For the third sentence of section 21 of the Amendment of Act said Act, the following shall be substituted (that is to say) :

"The term 'horse' shall include ponies, mules, camels, and oxen."

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

STATEMENT OF OBJECTS AND REASONS.

The Government of the North-Western Provinces has recently called the attention of the Government of India to the necessity of bringing conveyances drawn by camels within the scope of the Stage Carriages' Act of 1861. The primary object of the present Bill is to make this amendment; and the opportunity has been taken to render the Act applicable also to carriages drawn by oxen, and to declare it to be in force throughout British India.

SIMLA; }  
The 22nd June 1876. } E. C. BAYLEY.  
WHITLEY STOKES,  
Secy. to the Govt. of India.





# The Calcutta Gazette.

WEDNESDAY, JULY 19, 1876.

## PART VI.

### Bills of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th July 1876:—

We, the undersigned Members of the Select Committee to which the Bill to amend the law

Note by the Hon'ble Sir W. Muir, dated 2nd September 1875.  
Despatch from Secretary of State, No. 43, dated 31st August 1875.

From Chief Commissioner, Oudh, No. 3478, dated 27th September 1875.

" Secretary to Government, North-Western Provinces, No. 152A, dated 4th October 1875.

" Chief Commissioner, Assam, No. 3464, dated 28th September 1875.

" Officiating Secretary to Chief Commissioner, Central Provinces, No. 3787-165, dated 21st October 1875, and enclosure.

" Secretary to Government, Punjab, No. 2186, dated 29th October 1875.

" Secretary to Government, Bengal, No. 2643, dated 10th November 1875.

" Chief Commissioner, British Burmah, No. 1933-400, dated 14th November 1875.

Endorsement, Financial Department, No. 2974, dated 14th December 1875, forwarding despatch from Secretary of State, No. 46, dated 21st October 1875.

From Officiating Secretary to Chief Commissioner, Mysore, No. 7836-6J, dated 18th January 1876.

" Government of Madras, No. 6, dated 24th January 1876.

" " of Bombay, No. 1498, dated 8th March 1876, and enclosures.

Suggestions by J. R. Naylor, Esq.  
Demi-official from Collector of Salt Revenue, Bombay, dated 27th March 1876.

From Acting Commissioner of Customs, Bombay, No. 1540, dated 30th July 1874, and enclosures.

Extract from the Proceedings of the Government of Bombay, No. 5448, dated 14th October 1874.

Extract from the Proceedings of the Government of Bombay, No. 119, dated 9th January 1875.

From Acting Chief Secretary to the Government of Bombay, No. 3330, dated 6th June 1876.

relating to opium was referred, have the honor to report that we have considered the Bill and the papers noted in the margin.

2. We think that the proposed Act should come into force throughout British India on 1st January 1877.

3. Act No. VII of 1836 declared that the legality of acts done under the two Bombay Regulations which the Bill proposes to repeal, should not be questioned in any Court of law. That Act was repealed by Act VIII of 1868, but not so as to restore the jurisdiction thus withdrawn. We have endeavoured to maintain the present state of affairs by declaring that the reference made in Act No. VII of 1836 to those Regulations shall be read as if made to the corresponding provisions of the Bill.

4. We have defined "opium" so as to include poppy-heads and all intoxicating drugs prepared from the poppy, and "Magistrate" so as to confine criminal jurisdiction under the proposed Act to Presidency Magistrates and (in the Mofussil) Magistrates of the first class.

5. We have repealed and consolidated all extant enactments relating to opium, except the local and departmental rules contained in sections 3 to 31 of Act XIII of 1857. The Bill,

accordingly, now not merely authorizes the Local Government to make rules as to poppy-cultivation and the possession, transport, and sale of opium: it also provides rules as to the import, export, and warehousing of opium; and it empowers the Local Government, with the previous sanction of the Governor-General in Council, to prohibit or permit poppy-cultivation and the manufacture, possession, transport, import, export, or sale of opium, to make rules as to the manufacture, import, or export of opium, as to its safe custody and removal when warehoused, as to the disposal of things confiscated under the proposed Act, and as to rewards to officers and informers.

6. The penalties incurred for contravening the proposed Act, or any rule made thereunder are a year's imprisonment, fine for Rs. 1,000, or both; and where a fine is imposed, we have required (in accordance with Bombay Regulation XXI of 1827, section 7) the convicting Magistrate to direct the offender to be imprisoned in default of payment for a term which may extend to six months.

7. We have extended the power of confiscation to the whole of the opium which an offender, against the rules as to transport, import, or export, is transporting, importing, or exporting, as the case may be; and, when the offence is against the rules as to sale, to the whole of the opium in the offender's possession.

8. We have declared that, in prosecutions under the proposed Act, all opium for which the accused is unable satisfactorily to account shall be presumed to be opium in respect of which an offence has been committed.

9. When an offender against the Act is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, we have provided for an enquiry and confiscation by the Collector of the district, or other proper officer.

10. We have empowered any duly authorized officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, on receiving written information that opium is unlawfully kept in an enclosed place, to enter, seize and arrest; and we have empowered any officer of any of those departments to seize opium carried in an open place which he has reason to believe liable to confiscation, and to arrest the person carrying it. We have required these officers to assist each other.

11. We have provided for the issue of warrants for arrest or search, and for the disposal of persons arrested and things seized.

12. We have provided a penalty for vexatious searches, seizures, and arrests under the proposed Act, and we think that every officer making an arrest or seizure should within forty-eight hours report the particulars to his official superior.

13. We have also provided, in places where Act XIII of 1857 is not in force, for the attachment of a poppy-crop alleged to be illegally cultivated.

14. Lastly, we have declared that arrears of taxes, &c., due under the proposed Act or rules, and arrears due from farmers of opium-revenue, may be recovered as if they were arrears of land revenue.

15. The publication ordered by the Council has taken place; but the Bill has been so much altered that we think that it should be republished, with this report, in the *Gazette of India* and in the local Gazettes.

W. MUIR.  
R. H. DAVIES.  
A. HOBHOUSE.  
JOHN INGLIS.  
T. C. HOPE.  
F. R. COCKERELL.

SIMLA,  
The 26th June 1876.

## No. II. THE OPIUM BILL, 1876.

### CONTENTS.

#### PREAMBLE.

#### SECTIONS.

1. Short title.  
Local extent.  
Commencement.
2. Repeal of enactments.  
Amendment of Act No. VII of 1836, s.1.
3. Interpretation-clause.
4. Import of opium.
5. Export of opium.
6. Customs laws applied to opium.
7. Warehousing opium.
8. Power to make rules as to poppy-cultivation, opium, &c.
9. Prohibition of poppy-cultivation and possession, &c., of opium.
10. Penalty for illegal cultivation of poppy, &c.

#### SECTIONS.

11. Presumption as to opium.
12. Confiscation of opium.
13. Order of confiscation by whom to be made.
14. Power to enter, arrest, and seize, on information that opium is unlawfully kept in any enclosed place.
15. Power to seize opium found in open place and arrest possessor.
16. Searches how made.
17. Officers to assist each other.
18. Vexatious entries, searches, seizures, and arrests.
19. Issue of warrants.
20. Disposal of person arrested or thing seized.
21. Report of arrests and seizures.
22. Procedure in case of illegal poppy-cultivation.
23. Recovery of arrears of taxes and opium-revenue.

#### SCHEDULE.



*A Bill to amend the law relating to Opium.*

Whereas it is expedient to amend the law relating to opium; It is hereby enacted as follows:—

Preamble.

Short title.

Local extent.

Commencement.

1. This Act may be called "The Opium Act, 1876": It extends to the whole of British India; And it shall come into force on the first day of January 1877.

Repeal of enactments.

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

Amendment of Act VII of 1836, s. 1.

3. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause.

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Magistrate" means in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class.

4. No opium shall be imported, by land or by sea, into any part of British India unless—

Import of opium.

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor-General in Council or a Local Government; or

(b) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(c) such import is permitted under the power next hereinafter conferred.

The Governor-General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the import of opium, or of any kind of opium, by land into any specified part of British India on payment of such duty, or on such other terms, as the Governor-General in Council thinks fit; and

(e) cancel such permission.

5. No opium shall be exported by land or by sea from any part of British India unless—

Export of opium.

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor-General in Council or the Local Government; or

(b) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(c) such export is permitted under the power next hereinafter conferred:

The Governor-General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the export of opium by land or by sea from any specified part of British India on payment of such duty, or on such other terms, as the Governor-General in Council thinks fit; and

(e) cancel such permission.

6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

7. The Governor-General in Council may, by order notified in the *Gazette of India*, authorize any Local Government to establish warehouses for opium legally imported into or intended to be exported from the territories subject to such Local Government, and may cancel any such order.

So long as such order remains in force, the Local Government may declare, by notification published in the official Gazette, any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence.

On and after such publication the owner of all such opium shall be bound to deposit it in such warehouse.

8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(a) the cultivation of the poppy;

(b) the manufacture of opium;

(c) the possession of opium;

(d) the transport of opium from one place to another within British India;

(e) the importation or exportation of opium into or out of British India;

(f) the sale of opium;

and to regulate within the whole or any specified part of such territories all or any of the matters aforesaid, and also

(g) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(h) the disposal of all things confiscated under this Act;

(i) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor-General in Council, and on receiving such sanction, shall be published in the local official Gazette, and shall thereupon have the force of law.

9. Unless in accordance with this Act or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

Prohibition of poppy cultivation and possession, &c., of opium.

- (a) cultivate the poppy;
- (b) manufacture opium;
- (c) possess opium;
- (d) transport opium from one place to another within British India;
- (e) import or export opium into or out of British India; or
- (f) sell opium.

10. Whoever in contravention of this Act, or of rules made and published under section eight,

Penalty for illegal cultivation of poppy, &c.

- (a) cultivates the poppy, or
- (b) manufactures opium, or
- (c) possesses opium, or
- (d) omits to warehouse opium when bound to do so under section seven, or
- (e) transport opium from one place to another within British India, or
- (f) imports or exports opium into or out of British India, or

(g) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Presumption as to opium.

12. In any case in which an offence under section ten has been committed—

Confiscation of opium.

- (a) the poppy so cultivated,
  - (b) the opium in respect of which any offence under the same section has been committed,
  - (c) where, in the case of an offence under clause (e) or (f) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import, or export, as the case may be, the whole of the opium which he is transporting, importing or exporting,
  - (d) where, in the case of an offence under clause (g) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and
  - (e) the vessels, packages, and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyance used in carrying it,
- shall be liable to confiscation.

13. When the offender is convicted, such confiscation may be ordered by the convicting Magistrate.

Order of confiscation by whom to be made.

When an offence against this Act has been committed, but the offender is not known, or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person, and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

(a) enter into any such building, vessel or place,

(b) in case of resistance, break open any door and remove any other obstacle to such entry,

(c) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(d) detain and search, and if he think proper, arrest any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

15. If any officer of any of the said departments find

Power to seize opium found in open place and arrest possessor.

(a) any person in any open place whom he has reason to believe to be carrying any opium, or

(b) any person having in any open place any opium in his possession, or

(c) any opium in transit,

and such officer has reason to believe that the opium mentioned in clause a, clause b, or clause c of this section is opium in respect of which an offence has been committed, or which is liable to confiscation under this Act or any other law relating to opium for the time being in force,

he may stop and detain such person,

and may seize such opium and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

and may arrest such person, if opium be found in his possession, and any other persons in his company.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.



17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

18. Any officer of any of the said departments, who without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act, or vexatiously and unnecessarily detains, searches or arrests any person, shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

19. The Collector of the District, Deputy Commissioner, or other officer authorized by the local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his official superior.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable who may in right of his office be authorized by the local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail.

Provided that wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*) or any part thereof, is in force, nothing

in this Act shall apply to such cultivation and manufacture.

23. Any arrear of tax, fee or duty due under this Act, or under any rule duly made under section eight,

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

### SCHEDULE.

#### ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849	Abkari Revenue of Calcutta.	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words. In section 15, from and including the words "except in the case" to the end of the section. In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."
Act III of 1852	Spirituous liquors, Bombay.	Section 10, so far as it relates to opium.
Act XXI of 1856	Bengal Abkari Act	In section 28, the word "opium." Sections 34, 51, 52, 53, and 57. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium. In section 75, the words "except opium" and from and including the words "opium seized" down to the end. In section 76, from and including the words "except opium" down to and including the words "each seer," and from and including the words "or, in" down to and including the words "each seer." In paragraph 8 of section 80, the words "and opium."
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2.
Act X of 1871...	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19, the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3, from and including the words "as well as" down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium" down to and including the words "each seer," and from and including the words "or in" down to and including the words "each seer."
Act IV of 1872	The Punjab Laws Act.	Section 49.
Act XXVI of 1872.	Punjab Opium Law Amendment.	The whole Act.
Act VI of 1873	Transshipment of goods.	Section 7.
Act XVI of 1875	The Indian Tariff Act.	Section 9.

#### BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827.	Duty on opium ...	The preamble from and including the words "with the combined" down to and including the words "be prohibited." Chapters I, II, III, and IV.
Bom. Reg. XX of 1830.	Malwa opium ...	So much as has not been repealed.

WHITLEY STOKES,  
Secy. to the Govt. of India.



# The Calcutta Gazette.

WEDNESDAY, SEPTEMBER 20, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th September 1876, and was referred to a Select Committee with instructions to make their report thereon in six weeks :—

No. 10 of 1876.

*A Bill to amend the Land Improvement Act, 1871.*

Whereas doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows :—

Local extent.

1. This Act extends to the whole of British India;

It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed

Construction.

to have come into force on the twenty-eighth day of September 1871, being the day on which the said

Commencement.

Act came into force.

2. Section fifteen of the said Act is repealed and instead thereof the following section shall be substituted :—

Amendment of Act XXVI of 1871, section 15.

“ 15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways :—

(a) from the borrower as if they were arrears of land revenue due from him :

(b) from the surety (if any) as if they were arrears of land revenue due from him :

(c) out of the land to be improved as if they were arrears of land revenue due on account of such land :

(d) out of the property comprised in the collateral security (if any) according to the terms of such security :

Provided—

(e) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance :

(f) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance :

(g) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same claims and remedies against the borrower and the land to be improved as the Government had when the advance was due.”



## STATEMENT OF OBJECTS AND REASONS.

The Land Improvement Act (XXVI of 1871), section 14, provides that every certificate granted by a Collector making advances under the Act shall specify the amount of the advance, the position, extent and boundaries of the land to be improved, and the nature and amount of the security (if any) other than the land to be improved. Section 15 then provides that the amount so specified shall be recoverable "from the person to whom the advance was made, or from any person who has become security for the repayment thereof, as if they were arrears of land revenue due by the person to whom the advance was made or by his security."

The remainder of section 15 is as follows:—

"If any such sum cannot be so recovered, it shall be recoverable as if it was an arrear of revenue due on the land specified in the said certificate:

"Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of no person, other than such landlord or tenant, in the said land, shall be sold under this section."

On this clause two questions have arisen: First, is the advance made by Government a first charge on the land to be improved in preference to all other charges, whether they have priority in

point of time or not? Secondly, does the expression "land specified in the said certificate" include any land which might be given as security?

The object of the present Bill is to clear up these doubts; and it will be seen that it does so in accordance with what is believed to have been the principles on which the Act was framed, and with the undoubted understanding on which all loans have hitherto been made, received and recovered, viz. that Government advances should be a charge on the land "to be improved in preference to all other charges on, and interests in, such land, and that if other land be given as security, the Government advance should rank with other charges thereon in the same way as if it were an ordinary advance by a private person.

It might also be contended that, on the strict literal construction of the clause, the surety must be sued before all the remedies against the principal are exhausted. That is not just, and was not intended. The opportunity is therefore taken of removing doubts on this head, and of making it clear that the remedies against principal and surety stand on the usual footing.

SIMLA,

The 28th August 1876.

A. HOBHOUSE.

WHITLEY STOKES,

Secy. to the Govt. of India.



# The Calcutta Gazette.

WEDNESDAY, SEPTEMBER 27, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in five months:—

No. 11 of 1876.

#### THE INDIAN RAILWAY BILL, 1876.

##### CONTENTS.

###### PREAMBLE.

##### CHAPTER I.

###### PRELIMINARY.

###### SECTIONS.

1. Short title.  
Local extent.  
Commencement.
2. Repeal of Acts.
3. Interpretation-clause.
4. All opened Railways presumed within the Act.

##### CHAPTER II.

###### RULES RELATING TO RAILWAY COMPANIES.

5. No liability for unbooked luggage.
6. No liability for loss of gold, silver, &c., unless in case of special engagement.
7. Public notice or private contract not to limit liability.
8. Lien for money due for carriage of goods.

###### SECTIONS.

9. Written account of goods to be given on demand.
10. Carriage of goods of a dangerous nature.
11. Accident to be reported.
12. Returns of accidents in course of traffic.
13. Power to make rules for working Railway.  
Publication of rules.  
Penalty for breach of rules.  
Power to cancel rules.
14. Copy and translation of Act, &c., to be shown at stations.

##### CHAPTER III.

###### RULES RELATING TO PASSENGERS.

15. Passengers on payment of fares to be furnished with tickets.  
Tickets to be shown and given up on demand.
16. Fares and tickets at intermediate stations.  
Preferential right to tickets.  
Proviso.
17. Fares to be prepaid.
18. Passengers not to carry dangerous goods.

##### CHAPTER IV.

###### PENALTIES.

###### (A.) As to Companies.

19. For omitting to report accident.
20. For not sending return of accidents.



## SECTIONS.

(B.) *As to Railway Officers.*

21. For drunkenness or breach of duty.
22. For endangering the safety of persons.
23. For receiving bribes.
- Amendment of Penal Code, section 161.

(C.) *As to the Public.*

24. For not producing or delivering ticket.
25. For evading payment of proper fare.
26. For entering carriage in motion.  
For riding on the steps.
27. For riding on engine, tender, or luggage-van.
28. For smoking.
29. For intoxication or nuisance.
30. For entering private room or carriage.
31. For false account.
32. For carrying goods of a dangerous nature.  
For delivering such goods without notice.
33. For obstructing Railway Officer in his duty.
34. For injuring carriage, &c.
35. For trespass.  
For refusing to leave on request.
36. For cattle-trespass within Railway fences.  
For wilfully driving cattle on fenced Railway.  
Amendment of Act I of 1871, sections 11 and 26.
37. For opening or not properly shutting gates.

(D.) *As to Railway Officers and the public.*

38. For wilful act or omission endangering passenger.
39. For an act not wilful.

*Apprehension of offenders.*

40. Apprehension for offences punishable by fine.
41. Apprehension for offences against sections 13, 21, 22, 38 and 39.

*Jurisdiction.*

42. Jurisdiction of Magistrate, &c., to fine.
43. Jurisdiction of Justices to try Europeans for breach of general rules.
44. Heads of district police, &c., in Madras.

## CHAPTER V.

## MISCELLANEOUS.

45. Power of Government to make rules as to fences, gates, and bars.
46. Power to declare Local Government in respect of any Railway.

## SCHEDULE.

*A Bill to consolidate and amend the law relating to Railways in India.*

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows :—

Preamble.

## CHAPTER I.

## PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1876 :"

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty :

Local extent.

Commencement.

And it shall come into force on the first day of March 1877.

2. On and from that day, the Acts specified in the schedule hereto annexed shall be repealed.

All rules made, notifications published, and powers conferred under any of such Acts shall be deemed to have been respectively made, published, and conferred under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

'Railway.'

"Railway" includes—

- (a) railways belonging to and worked by Companies :
- (b) railways belonging to Government but worked by Companies :
- (c) railways worked by Government :
- (d) land within the fences or other boundary marks prescribed under section forty-five :
- (e) all lines of rail, sidings or branches, worked over for the purposes of, or in connexion with, a Railway :
- (f) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connexion with, a Railway :

And in the following sections (namely) 11, 13, 18, 21, 22, 26, 27 and 32 to 39 (both inclusive), "Railway" includes a railway under construction or not used for the public conveyance of passengers or goods.

"Railway officer" means any person employed by a Railway Company or the Government to perform any function in connection with a Railway.

'Railway officer.'

'Passenger.'

"Passenger" means a passenger by Railway.

"Magistrate" means any person lawfully exercising the powers of a Magistrate and include as

'Magistrate.'

Presidency Magistrate.

"Fine" includes a sum of money due upon a forfeited recognizance.

'Fine.'

4. Every Railway used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked, shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

## CHAPTER II.

## RULES RELATING TO RAILWAY COMPANIES.

5. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any

No liability for un-booked luggage.

passenger's luggage, unless it has been booked and separately paid for and made over to the charge of a Railway Officer.

6. A Railway Company and (in the case of a Railway worked by Government the Government shall in no case be answerable for loss of or injury to any of the following articles (namely):—

No liability for loss of gold, silver, &c., unless in case of special engagement.

- (a) gold or silver, coined or uncoined, manufactured or unmanufactured,
- (b) plated articles,
- (c) cloths and tissue of which gold and silver form part,
- (d) precious stones, jewellery, trinkets,
- (e) watches, clocks, or time-pieces of any description,
- (f) Government securities,
- (g) Government stamp-paper, postage stamps, telegraph stamps,
- (h) bills of exchange, promissory notes, bank-notes, orders, or other securities for payment of money,
- (i) maps, writings, title-deeds,
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture,
- (k) glass, china,
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials,
- (m) shawls,
- (n) lace,
- (o) opium,
- (p) ivory, ebony, sandalwood,
- (q) musical instruments,

contained in any parcel or package delivered to such Company or the Government, either to be carried on a Railway for hire or to accompany the person of any passenger, unless the value and nature of such articles have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same has been accepted by some person specially authorized to enter into such engagements on behalf of the Company or Government.

7. The liability of a Railway Company or (in the case of a Railway worked by Government) of the Government, for loss of or injury to any articles or goods to be carried by Railway other than those specially provided for by this Act, shall not be limited or otherwise affected by any public notice given, or any private contract made, by the Company or the Government;

Public notice or private contract not to limit liability.

but the Company, or (in the case of a Railway worked by Government) the Government, shall be answerable for such loss or injury when it has been caused by gross negligence or misconduct on the part of their agents or servants.

8. If any person fail to pay on demand any sum due for conveyance of any goods by Railway, the Company or (in the case of a Railway worked by Government) the Government may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Company or Government;

Lien for money due for carriage of goods.

and may also sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may out of the proceeds of the sale, retain the sum so payable, together with charges and expenses aforesaid, rendering the overplus, if any, of the money, arising by such sale, and such of the goods as remain unsold, to the person entitled thereto.

9. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway Officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods

10. Any Railway Officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain goods of a dangerous nature, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

11. Every Railway Company, and every Officer controlling a Railway worked by Government, shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company or so worked by Government of any accident attended with serious personal injury, give notice thereof to the Local Government.

12. The Local Government may direct any Railway Company or any Officer controlling a railway worked by Government to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the railway belonging to such Company, or so worked by Government whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

13. Every Railway Company, and every officer controlling a railway worked by Government, may respectively from time to time, with the previous sanction of the Governor-General in Council, make general rules for the use, working and general administration of the Railway belonging to such Company or so worked by Government.

All such rules shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway officers and the public in such manner as the Governor-General in Council from time to time directs.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding fifty

Penalty for breach of rules.



rupees, or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

The Governor-General in Council may at any time cancel any rule so sanctioned.

14. A copy of this Act, and of the General Rules, Time-tables, and Tariff of charges, which may from time to time be published for any Railway by any Railway Company with the sanction of the Local Government, or (in the case of a Railway worked by Government) by the officer controlling the same, shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the Vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

### CHAPTER III.

#### RULES RELATING TO PASSENGERS.

15. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the place from and place to which the fare has been paid, and shall, when required, show his ticket to any Railway officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway officer duly authorized to collect tickets.

16. At the intermediate stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Provided that all officers and troops of Her Majesty, on duty, and all other persons on the business of the Government, who by virtue of any contract with the Government are entitled to be conveyed on a railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

17. No person shall enter any carriage used on any Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket.

18. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which, in the judgment of any Railway officer, is or are of a dangerous nature.

### CHAPTER IV.

#### PENALTIES.

##### (A.) As to Companies.

19. Any Railway Company or officer controlling a Railway worked by Government omitting to give notice as required by section eleven, shall forfeit the sum of fifty rupees for every day during which such omission continues.

20. Any Railway Company or officer controlling a Railway worked by Government failing to deliver any return mentioned in section twelve, within fourteen days after the same has been required, shall forfeit the sum of fifty rupees for every day during which such failure continues.

##### (B.) As to Railway Officers.

21. Any Railway officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty, or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees; and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine, or to both.

22. If any Railway officer endangers the safety of any person—

(a) by disobeying any general rule sanctioned and notified in the manner prescribed by section thirteen, or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice, or

(c) by any rash or negligent act or omission, he shall be liable to imprisonment for any term not exceeding three years, or to fine not exceeding five hundred rupees, or to both.

23. Every Railway officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, and every person employed either permanently or temporarily in connection with a Tramway shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161 the word "Government" shall, for the purposes of this section, be deemed to include—

Amendment of Penal Code, section 161.

- (a) a Railway Company,
- (b) the proprietors for the time being of a Tramway, and
- (c) the lessees, representatives and assigns of such Company or proprietors.

(C.) *As to the Public.*

24. Any passenger not producing or delivering up his ticket when so required by a Railway officer authorized to require such production or delivery, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

25. Any person who defrauds, or attempts to defraud any Railway Company or the Government—

For evading payment of proper fare.

- (a) by travelling, or attempting to travel, upon any Railway, without having previously paid his fare; or
- (b) by riding in or upon a carriage of a higher class than that for which he has paid his fare; or
- (c) by continuing his journey in or upon any Railway carriage beyond the place for which he has paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof;

or who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage;

or who, in any other manner whatever, attempts to evade the payment of his fare,

shall be liable to a fine not exceeding fifty rupees for each offence.

26. Any passenger, who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage upon any Railway, while such carriage is in motion;

For entering carriage in motion.

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

27. Any person other than the engine man, fire-man, and assistant fire-man, who, without the special license of the Superintendent of Locomotives, rides or attempts to ride upon any locomotive engine or tender upon any Railway;

For riding on engine, tender, or luggage-van.

and any person other than the guard or brakesman, who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall be liable to a fine not exceeding twenty rupees for each offence.

28. Whoever smokes either in a railway station, or in or upon any Railway carriage, except in places or carriages specially provided for the purpose, shall be liable to a fine not exceeding twenty rupees for each offence;

For smoking.

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway officer, may, in addition to incurring the liability above-mentioned, be removed by any Railway officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

29. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway carriage, or upon any part of any Railway;

For intoxication or nuisance.

or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be liable to a fine not exceeding twenty rupees; and in addition to such liability, the offender may be removed by any Railway officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

30. If any special carriage or portion of a carriage, or any private room or apartment, be provided by any Railway Company or by Government for the exclusive use of females, any male person, who, without lawful excuse, enters such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or remains therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees,

For entering private room or carriage.

and may be removed therefrom, and also from the premises of the Railway, by any Railway officer,

and shall forfeit his fare.

31. Any owner or person, referred to in section nine, who wilfully fails to give on demand to any Railway officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to, or who wilfully gives to such Railway officer a false account thereof,

For false account.

shall, for every such offence, be liable to a fine not exceeding one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and to a fine not exceeding fifty rupees for any quantity of such goods less than a ton, or for any parcel less than one hundredweight.

For carrying goods of a dangerous nature.

32. Whoever carries upon a Railway any dangerous goods,

and whoever delivers to a Railway officer any such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same,

For delivering such goods without notice.



or otherwise giving notice in writing of the nature thereof to such officer,

shall be liable to a fine not exceeding two hundred rupees for every such offence.

33. Whoever wilfully obstructs or impedes any Railway officer in the discharge of his duty on a Railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

34. Whoever unlawfully and wilfully removes or defaces the number-plates, or removes or extinguishes any lamp on any Railway carriage; or wilfully or negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other thing belonging to a Railway Company or (in the case of a Railway belonging to or worked by Government) to Government, shall be liable to a fine not exceeding fifty rupees.

35. Whoever trespasses upon a Railway shall be liable to a fine not exceeding twenty rupees; and if any person so trespassing refuse to leave such Railway on being requested to do so by any Railway officer, or by any other person on behalf of the Railway Company or the officer controlling a Railway worked by Government, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway by such officer or other person as aforesaid.

36. The owner or person in charge of any cattle trespassing or straying on any Railway provided with fences suitable for the exclusion of cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the said Act.

All fines imposed under this section may be recovered in manner provided by section 25 of the said Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression 'public road' in sections eleven and twenty-six of the said Act shall be deemed to include a Railway. And any

Railway officer may exercise the powers of seizure provided by the said section eleven.

*Explanation.*—In this section the word 'cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids.

37. Whoever, when any engine or train approaches along a Railway is in sight, opens any gate which has been set up for the use or accommodation of any person by any Railway Company or by Government on either side the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle, or other animal or thing across the Railway;

and whoever at any time omits to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge have passed through the same,

shall be liable to a fine not exceeding fifty rupees.

(D.) As to Railway Officers and the Public.

38. Whoever, whether a Railway officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to endanger the safety of any person travelling or being upon any Railway, may be sentenced to transportation (or in the case of an European or American to penal servitude) for life or to imprisonment for any term not exceeding seven years.

39. Whoever, whether a Railway officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall, upon conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to fine or to both.

*Apprehension of Offenders.*

40. If any person commit any offence hereby made punishable by fine, and the name and address of such person are unknown, or there be reason to believe that he will abscond, any Railway officer or any police-officer, or other person whom such Railway officer or police-officer may call to his aid, may, without any warrant or written authority, apprehend and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

41. Every person guilty of any offence mentioned in sections 13, 21, 22, 38 and 39 may be apprehended without any warrant or written authority by any Railway officer, or by any other person whom such officer may call to his aid, or by any police-officer empowered to arrest without a warrant;

and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace authorized to punish the offender or to commit him for trial.

*Jurisdiction.*

42. Any person, whether a European British subject or not, who is guilty of any offence for which, under this Act, he is liable to a fine only, shall be punishable for such offence by any Magistrate, whether the offence has been committed within the local limits of his jurisdiction or not.

43. Any Justice of the Peace may try a European British subject for an offence under section thirteen and may on conviction award a sentence within the limits thereby prescribed for such offence.

44. The heads of district police and amins of police in the Presidency of Fort St. George may punish, to the extent of their jurisdiction in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

## CHAPTER V.

## MISCELLANEOUS.

45. The Governor-General in Council, or the Local Government with the sanction of the Governor-General in Council, may, from time to time, make rules providing—

- (a) boundary-marks of fences for any Railway or any part thereof, and for roads constructed in connection therewith,
- (b) gates or bars at places where any Railway crosses a road on the level, and
- (c) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purposes of section thirty-six, be deemed to be suitable for the exclusion of cattle.

46. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare that Government or other authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

## SCHEDULE.

## ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

## STATEMENT OF OBJECTS AND REASONS.

Doubts having arisen as to whether certain sections of the Railway Act (XVIII of 1854) applied to lines under construction or not opened for public conveyance of passengers and goods, the present Bill has been prepared with the primary object of removing these doubts.

At the same time the opportunity has been taken to consolidate four out of the five Acts in which the Railway law of India is now contained and to make the following amendments therein:

Companies will not be answerable for loss or injury to luggage unless it has been not only booked and paid for, but made over to the charge of a Railway officer.

The following articles (namely), cloths and tissue of which gold or silver forms part, telegraph stamps, lithographs, photographs, carvings, sculpture, opium, ivory, ebony, sandalwood, and musical instruments, have been added to the list of articles, for losing or injuring which Companies will not be liable except in case of special engagement.

The clause as to receiving bribes has been made to apply not only to Railway officers, but also to every other person employed by or on behalf of a Railway Company to do any act upon the Railway.

The fines for giving false account of the goods carried, or to be carried on a Railway, have been raised respectively from Rs. 50 and Rs. 20 to Rs. 100 and Rs. 50.

SIMLA,  
The 2nd September 1876, } A. CLARKE.  
WHITLEY STOKES,  
Secy. to the Govt. of India.





# The Calcutta Gazette.

WEDNESDAY, OCTOBER 4, 1876.

## PART VI.

### Bill of the Legislative Council of India.

GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 14th September 1876, and was referred to a Select Committee with instructions to make their report thereon in three months:—

No. 12 of 1876.

### THE STRAITS SETTLEMENTS EMIGRATION BILL, 1876.

#### CONTENTS.

##### PREAMBLE.

##### I.—PRELIMINARY.

##### SECTION.

1. Short title.  
Local extent.  
Commencement.
2. Act XIV of 1872, repealed.  
Act VII of 1871 not to apply to emigration from Madras to the Straits Settlements.
3. Interpretation-clause.
4. From what port emigration lawful.
- II.—EMIGRATION AGENT.
5. Appointment of Emigration Agent.
- III.—PROTECTOR OF EMIGRANTS.
6. Appointment of Protector of Emigrants.
7. General duties of Protector.  
Inspection of vessels with return emigrants.

##### IV.—EMIGRATION DEPÔT.

##### SECTION.

8. Establishment and licensing of depôt.  
Duration of license.  
Fee for license.
9. Inspection by Protector.  
Agent and his subordinates to afford facilities for inspection.
10. Supply of medical aid and comforts.
- V.—RECRUITERS OF LABOURERS.
11. Protector to license recruiters.
12. Duration and cancelment of license.
13. Form of license.  
Fee for license.
14. Recruiter to obtain Magistrate's counter-signature to license.

##### VI.—CONTRACTS WITH EMIGRANTS.

15. Conditions of validity of emigration contracts.
16. Contents of such contracts.
17. Certain agreements declared void.
18. Medical examination of intending emigrants.  
Dependents.  
Form of certificates.
19. Emigrant to appear before Magistrate, and be examined.  
Registration when to be refused.
20. Examination of dependents.
21. Copies of registered matters.
22. Copy of entry in register to be sent to Emigration Agent and Protector.
23. Registration at Negapatam.
24. Fee for registration.

## VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

### SECTIONS.

25. Arrival at depôt to be reported.
26. Duty of Emigration Agent on arrival of emigrants.
27. Duty of Protector.
28. Countersignature of contract. Grant of embarkation pass.
29. When the emigrant to be sent back to the place of registration. Payment of expenses of sending him back.
30. Failure of Emigration Agent, &c., to pay such expenses.
31. Emigrant unfit from illness to return to the place of registration.
32. Suits against Emigration Agent for breach of contract.

## VIII.—EMIGRANT VESSELS.

33. Emigrants not to be received on board vessels other than those licensed under Native Passengers' Act, or without certificate from Protector. Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.
34. Emigrant to give his pass to Master.
35. Emigration Agent to be present at embarkation.
36. Master to deliver list of emigrants.

## IX.—SUPPLEMENTARY POWERS.

37. Power to prohibit emigration to the Straits Settlements.
38. Revocation of prohibition.

## X.—OFFENCES.

39. Making unlawful contract of labour. Recruiting without being licensed. Recruiter omitting to take engaged labourers before Magistrate or Protector.
40. Use of force, fraud, &c., to cause a Native to emigrate.
41. False representation of Government authority.
42. Receiving emigrants on board without license or certificate.
43. Failure to comply with requirements of sections 34 and 36.
44. Taking on board, after clearance, emigrants not entered in list.
45. Customs officers may search and detain for purposes of this Act.
46. Prosecutions under this Act by whom to be instituted.

## XI.—MISCELLANEOUS.

47. Act not to apply to certain vessels,
48. or to contracts with Native seamen and menial servants.
49. Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

### THE FIRST SCHEDULE.

### THE SECOND SCHEDULE.

*A Bill to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.*

Whereas it is expedient to regulate emigration from the Presidency of Fort Saint George to the

Preamble.

Straits Settlements; it is hereby enacted as follows:—

## I.—PRELIMINARY.

1. This Act may be called "The Straits Settlements Emigration Act, 1876."
 

Short title.

This section and section two extend to the whole of British India: the rest of this Act extends only to the territories under the government of the Governor of Fort Saint George in Council;

Local extent.

And it shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the *Fort Saint George Gazette*, direct.

Commencement.

2. On and from such date Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) shall be repealed, but not so as to revive any right to sue or ground of proceeding taken away by the said Act.

The provisions of Act No. VII of 1871 (*to consolidate the laws relating to the emigration of Native Labourers*) shall not apply to emigration to the Straits Settlements from the said territories, or to any contract for labour to be performed in the Straits Settlements by an emigrant from the said territories.

### Interpretation-clause.

3. In this Act—
 

"Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements:

"Emigrant" means a person who "emigrates" within the meaning of the above definition:

"Magistrate" means a Magistrate of a District, a Magistrate of a division of a District, or any person appointed by the Local Government to perform the functions of a Magistrate under this Act:

"Vessel" includes anything made for the conveyance by water of human beings or property.

4. It shall not be lawful to emigrate except from the Port of Negapatam, or from such other port as may from time to time be declared by the Local Government, by a notification in the *Fort Saint George Gazette*, to be a port from which emigration under this Act shall be lawful.

While any such notification is in force, all the provisions of this Act shall apply to the port mentioned in such notification in like manner as they apply to the Port of Negapatam.

The Local Government may, at any time, by a like notification, revoke any such notification.

## II.—EMIGRATION AGENT.

5. The Government of the Straits Settlements may from time to time appoint such person as the Local Government approves, to act as Emigration Agent at the Port of Negapatam, or such other port as aforesaid.

Appointment of Emigration Agent.



The Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

### III.—PROTECTOR OF EMIGRANTS.

6. The Local Government shall direct the Magistrate of the division of the district in which the town of Negapatam is situated, or such other Magistrate in Negapatam as it thinks fit, to act as Protector of Emigrants under this Act, and may, with the sanction of the Governor-General in Council, assign to such Magistrate such establishment as it thinks fit.

7. Such Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

He shall also inspect on arrival all vessels bringing return emigrants to Negapatam, and enquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Local Government.

He shall aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

### IV.—EMIGRATION DEPÔT.

8. The Emigration Agent shall establish a suitable depôt for emigrants at Negapatam and at any such other port as aforesaid. Such depôt may be licensed by the Protector of Emigrants after being inspected and approved of by him.

No such license shall be in force for a longer period than a year; and any such license may be cancelled by the Protector of Emigrants, if he considers that the depôt for which it was granted is unhealthy, or in any respect has become unsuitable for the purpose for which it was established, or if the Emigration Agent fails to comply with any of the requirements of this Act.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

9. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

The Emigration Agent and all persons in charge of, or employed in, the depôt shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information as he may require.

10. The Emigration Agent shall provide at the depôt such medical aid and comforts as the said Protector may from time to time direct.

### V.—RECRUITERS OF LABOURERS.

11. The Protector of Emigrants shall license so many fit persons, as he deems necessary, to be-recruiters of labourers, for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from the Protector of Emigrants.

12. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

13. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first Schedule hereto annexed.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

14. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

### VI.—CONTRACTS WITH EMIGRANTS.

15. A contract made by a recruiter with a Native of India to emigrate shall not be enforceable by the recruiter or his principal unless it—

- (a) is expressed in writing;
- (b) purports to be executed by the recruiter on behalf of some principal in the Straits Settlements;
- (c) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;
- (d) is registered in the manner provided in section nineteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

16. Every such contract shall—

- (a) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and
- (b) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

17. Save as provided by section fifteen, clause (c), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Every contract not containing the particulars required by section sixteen shall be illegal and void.

18. Every recruit who has entered into such a Medical examination of contract as aforesaid shall intending emigrants. be brought by the recruiter before the Civil Surgeon of the district, or such other Medical Officer as the Local Government appoints in this behalf, or in default of such appointment, before such Medical Officer as the Magistrate directs.

The Medical Officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the Medical Officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the Medical Officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Certificates shall be in the form set forth in the second Schedule hereto annexed; and the recruiter shall pay to the Medical Officer such fee for each person so examined as the Local Government may from time to time prescribe.

19. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

If it appears on such examination that the recruit understands the nature of the contract he has entered into as regards the particulars specified in section sixteen, and that he is willing to fulfil the same, the Magistrate shall register

(a) the name, the father's name, and the age of such recruit:

(b) the name of the village or place in which he resides:

(c) the port of embarkation to which it is intended he shall proceed:

(d) the particulars specified in section sixteen.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of his contract, or has been induced to enter into it by fraud or misrepresentation, he shall refuse to register him, and record his reasons for such refusal.

20. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

21. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections nineteen and twenty.

22. A copy of every entry made in the registry book by a Magistrate shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

23. Registration under section nineteen and section twenty, of emigrants recruited in the division of the district in which the town of Negapatam is situated, and of persons dependent on such emigrants, shall be effected before the Protector of Emigrants in the manner hereinbefore prescribed for registration before a Magistrate; and such Protector shall deliver one copy of the contract to the emigrant and another copy of the contract to the Emigration Agent.

24. For the registration of every contract under section nineteen, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee as may be from time to time directed by the Local Government, not exceeding one rupee.

#### VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

25. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

26. The Emigration Agent shall, within forty-eight hours after the arrival of each emigrant at the depôt, question such emigrant as to the mode of his recruitment, and shall at the same time examine the copy of the contract furnished to the emigrant under section twenty-three.

If, for any reason, further enquiry is necessary, he shall make such enquiry forthwith.

27. The Protector of Emigrants shall attend personally at the examination of emigrants by the Emigration Agent under section twenty-six, except in the case of emigrants recruited in the division of the district in which the town of Negapatam is situated, and shall see that the Emigration Agent makes all such enquiries of the emigrants as it may be his duty to make.

28. If, in the opinion of the Protector of Emigrants, the examination and enquiry made under section twenty-six disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration